

**Review of Issues and
South Asian Initiatives
on Safe Migration,
Rule of Law (Trafficking and
Violence Against Women)
and the Care of Victims**

SARI^Q

SOUTH ASIA REGIONAL INITIATIVE/EQUITY SUPPORT PROGRAM



Review of Issues and South Asian Initiatives on Safe Migration, Rule of Law (Trafficking and Violence Against Women) and the Care of Victims

by

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Background and Purpose

The focus of the South Asia Regional Initiative/Equity Support Program (SARI/Q), a USAID funded regional program implemented by the Academy for Educational Development (AED) and Management Systems International (MSI), is on equity and fairness for women and children. SARI/Q is a program about providing women and children with the conditions they need to maximize the human potential with which they were endowed at birth.

Within this broad framework, SARI/Q concentrates its effort on improving the implementation of laws and policies for combating trafficking and violence against women and children, ensuring safe migration and raising the standards for services to victims. To effect these kinds of changes, SARI/Q will work closely with and through non-governmental organizations (NGOs) and with government initiatives whose mission often parallels the focus of this program.

SARI/Q brings to this endeavor a range of mechanisms for supporting the expansion of NGO networks, both within countries and across borders. SARI/Q will help these networks identify, analyze, replicate and scale-up and institutionalize proven best practices, and use research findings from SARI/Q for targeted advocacy to ensure the systematic implementation of related policies and laws. SARI/Q assistance will include fostering networking through workshops, conferences, training and technical assistance, electronic dissemination of research and “how to” materials. The program will also provide grants aimed at collaboration among NGOs to develop shared advocacy action programs and replicate successful initiatives.

On March 25-26, SARI/Q will hold a regional strategy session with NGOs and other SARI/Q program stakeholders from Bangladesh, India, Nepal and Sri Lanka (the four countries currently served by this program). The purpose of this strategy session is to further refine SARI/Q priorities within the framework outlined above. The purpose of this paper is to provide an inventory of existing reports and projects relevant to the SARI/Q topics and a common starting point for strategy session participant discussions.

Far from being the final word on the complex issues that brought the SARI/Q program into existence, this paper is a starting point. The inventories it provides are not exhaustive, but they provide a foundation on which to build. Over time more information

required to advocate for change will be added to these inventories with the help of NGOs and governments throughout the region.

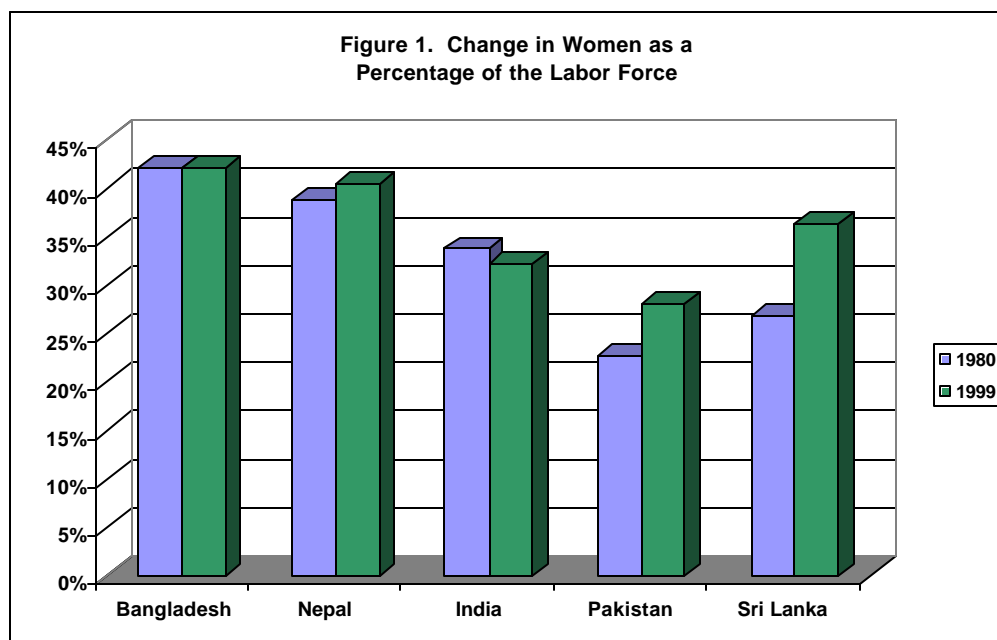
People in Motion: Opportunities and Risks

Migration in South Asia, is usually within the borders of a person's own country, whether on a short or long term basis. Though migration has deep roots in parts of South Asia, most people still live their entire lives in the area where they were born.¹

*"Traffickers fish
in the stream of migration"*

*Dr. Radhika Coomaraswamy
U.N. Special Rapporteur
on Violence Against Women*

Until very recently, migration, both from less developed areas (rural and hill areas) to more developed areas (large cities and smaller urban areas) or across national borders was a choice based primarily on the income earning options available to men. Despite their hard work, South Asian women were not identified as independent wage earners. This situation has now changed. By the 1980s, women in South Asia represented, on average, about 35% of the labor force in the region, but countries were not homogeneous in this regard.



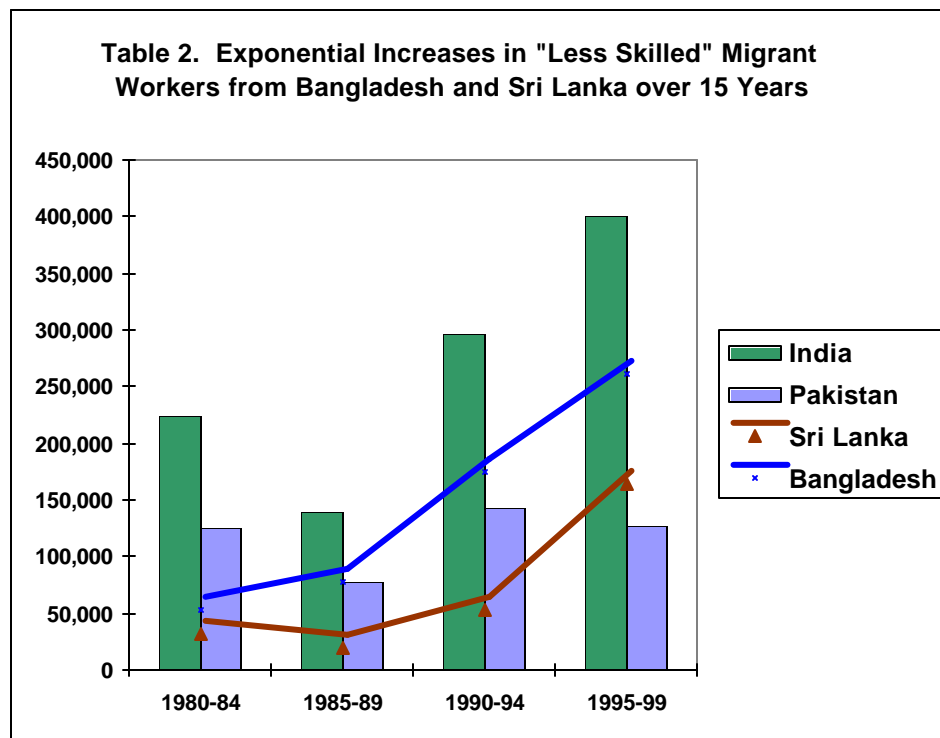
Source: World Bank, World Development Indicators, 2001, except for Nepal. Data for Nepal is for 1981 and 1991 and comes from the Mahhilaweb Internet site.

Traditionally, mobility and active participation in the labor force as a wage earner are almost always closely linked to male laborers. Up to the 1990s, female migration in South Asia was a family decision and not necessarily linked to employment, as was the case for men. Data from India's 1991 census show that the reason cited for migration by 77% of female migrants was marriage, while 60% of men cited employment as their reason.²

The economic employment impetus that has traditionally led men to migrate within their country for work has grown stronger over time and expanded to include women. For example, within Nepal, there has been a ten-fold increase in domestic migration between 1961 and 2001.³ The same impetus, fueled by globalization and the liberalization of trade, has increased the external migration of low skilled laborers across most of the region over the past 15 years.

Whether domestic or international, male or female, worker mobility is often categorized in terms of the duration of a person's stay in another country. For some Nepalese, mobility means a daily commute across the Indian border, while for Punjabi taxi cab drivers it means a weekly train ride to New Delhi. For the most part, however, low skilled migrant workers can be loosely defined as people who leave home for a year or more for employment that has been pre-arranged. The term of their stay and the nature of their work distinguish them from highly educated migrants who may live much of their lives abroad.

While, initially, very few low skilled South Asian women migrated across international boundaries to other South Asian countries or to the Gulf States, this situation is changing.⁴ The flow of less-skilled workers, among whom are an increasing number of female workers, is increasing dramatically, as illustrated in Figure 2.



Source: IOM, *Labor Migration in Asia*, 2003, except for Nepal. Nepal data is for all migrant workers registered by the Nepal Department of Labor for these years, not disaggregated by labor category. These figures for Nepal exclude traffic across the open border with India, but it does include all Nepali's migrating to the Gulf and other more distant destinations.

There seems to be no single “South Asian” pattern when it comes to labor migration. What prompts some people to migrate and others to stay home is an issue of continuing interest to economists and policy makers. Most economic theories focus on opportunities, sometimes contrasting factors that push a person toward migration and those that pull at people, enticing them to migrate. Other models, some of which mesh well with statistical data on migration in South Asia, focus on regional disparities as a key factor in the migration decision process.⁵

When one applies an economic theory of migration to women, rather than men, survey data from South Asia suggest that what pushes and pulls women is not necessarily the same as what pushes and pulls men, though there are clear areas of overlap.⁶ The factors that push and pull women to migrate are also their sources of vulnerability. The pull of a promise of marriage or a well paying job makes them vulnerable. Growing global demand for cheap, low cost labor helps to make the traffickers’ deception credible. Push factors, ranging from poverty⁷, to the desire to earn enough for one’s dowry, to repeated and progressive child sexual abuse⁸ bring with them an equal degree of vulnerability, if not desperation. The consequences of that vulnerability range from simple fraud, i.e., a false passport, visa, or an employment contract to a trafficking experience. Over the past two years, the International Organization for Migration (IOM), working with USAID and NGOs in Bangladesh, has significantly advanced international understanding of the intricate interplay of these factors.⁹

What Stimulates Female Migration?

Push Factors

Poverty

Abuse

**Pro-migration
policy & related
assistance**

**Family needs
expectations,
and social customs,
including dowry**

**Natural disasters
& large scale public
works Projects**

Conflict insecurity



Pull Factors

**Promise of
marriage**

**Better job
opportunities
even when
migration
is banned.**

**Curiosity
(among
youth)**

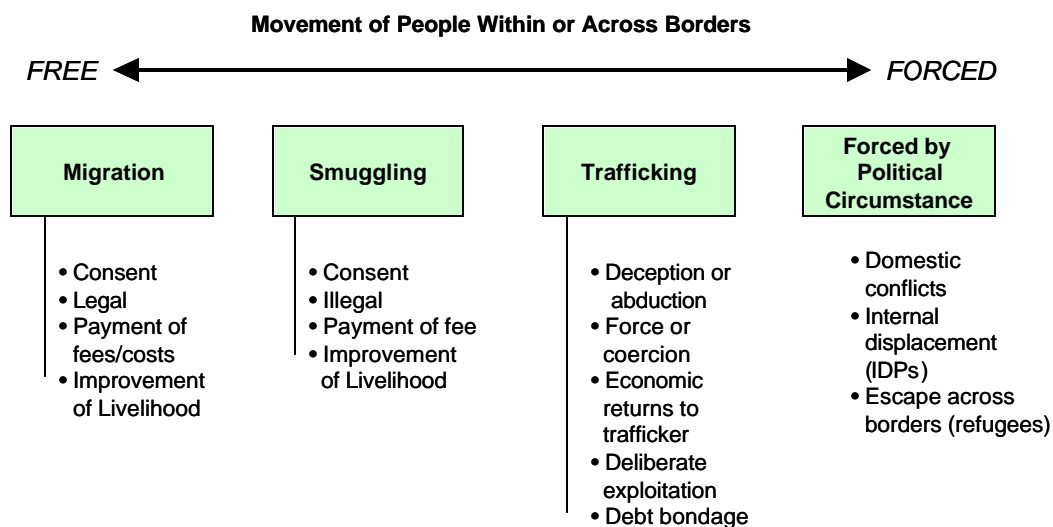
**Global
demand for
cheap, low-
skilled labor**

As the links between mobility and risk, migration and trafficking, trafficking and the need for care, reintegration and empowerment of victims become better understood, it becomes correspondingly clear that holistic, multi-pronged strategies are required to protect the welfare of the women and children who migrate in search of work to support themselves and their families. South Asian female migration reflects the world-wide phenomenon of the feminization and globalization of the work force. Hence the SARI/Q program focuses on three responses that are seen not just in South Asia but around the world:

- Safe Migration – the perils migrants face today and solution strategies;
- Laws and their effective implementation – as deterrents to both trafficking and the kinds of domestic violence against women that can drive them into the hands of traffickers, and
- Caring for victims – ensuring that they receive appropriate protection, whether as survivors of violence, witnesses in criminal cases, or both, and helping them rebuild their lives.

Safe Migration

The process of migration is fraught with perils. Migration is a complex continuum having various domestic and external dimensions along which voluntary migration may become involuntary and legal migration may become illegal. The following diagram (SARI/Q's update of a 1999 diagram by the Global Alliance Against Trafficking of the "free to forced" continuum), illustrates this.



At the free movement end of this continuum, the risks associated with migration are nonetheless high, particularly for low skilled individuals, both male and female. This nexus between low skill levels and high risks of sexual and economic exploitation

indicates the need for development of strategies for rapid acquisition of higher skill levels by adolescents and young women.

Analytically, those who are concerned with the design of programs for safe migration, particularly the safety of women who seek jobs outside their country of origin, divide the problem into three stages:

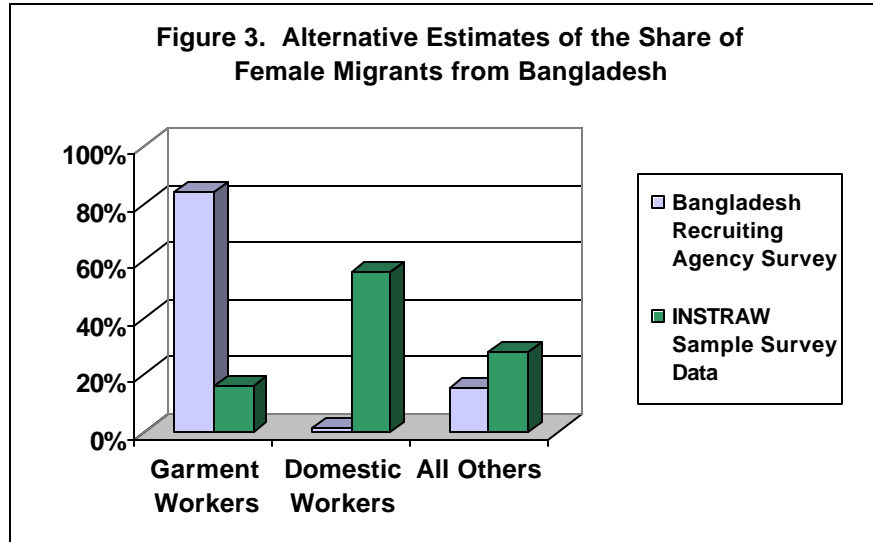


The vulnerabilities at each of these stages are well documented. At the preparatory stage, these include deceptions by unauthorized agents that transform would-be legal migrants into illegal migrants or trafficked victims at the point of destination. Equally important are the problems that could make a legal migrant's experience in the destination country a nightmare. The range of unacceptable outcomes at a migrant's destination, whether she or he is legal or illegal, include the confiscation of passport and restricted movement; long hours and poor working conditions; verbal, physical and sexual abuse; contracting HIV/AIDS and, at the extreme, death at the hands of traffickers in human organs. Return, whether voluntary or forced, can also be problematic as a consequence of overstaying their visa or the lack of one. At such times, rescue can be the only option, but may be difficult because repatriation is not always a priority of the migrant's country of origin.

Programs aimed at making migration safer exist across all of these stages, with some degree of involvement of both countries of origin and destination. At the end of this section, tables are appended that document the efforts being made by governments and NGOs to ensure safe migration. There are a few examples in Nepal where awareness programs have been carried out with special focus on safe migration. These tables include the various conventions and laws pertaining to migration as well as national and NGO programs for safe migration. A review of these tables shows that while approaches are similar from country to country, and amongst NGOs, the extent and intensity of these efforts varies dramatically. Government programs in Sri Lanka lead the way in safe migration programs from the South Asian side and the United Arab Emirates is similarly in a lead position in terms of the Gulf destination countries. These tables also make evident the fact that most countries of origin and NGO programs focus on the pre-departure stage of migration. Destination countries focus on the 'safe stay' aspect of migration, where many of the problems identified by South Asian women occur.

Safe migration is not only a question of programs, it is also a question of policy, and countries in South Asia differ from each other at the policy level with respect to the migration of low skilled women. Remittances through migrant workers turn out to be an important source of foreign exchange for the host countries but these are only tracked and published by Sri Lanka and Bangladesh. However, these figures do not seem to impact on the migration-related policies of these governments. Whereas Sri Lanka has a pro-

migration policy with extra emphasis and safeguards for the safe migration of domestic workers, both Bangladesh and Nepal ban the migration of women as domestic workers. India's policy is neutral, but on a case-by-case basis it retains control through the issuance of certificates for external travel.



Source: INSTRAW

Data for Bangladesh drawn from an INSTRAW survey highlight the fact that bans on female migration are ineffective. Rather they force women who would have traveled legally if they could to become illegal migrants.

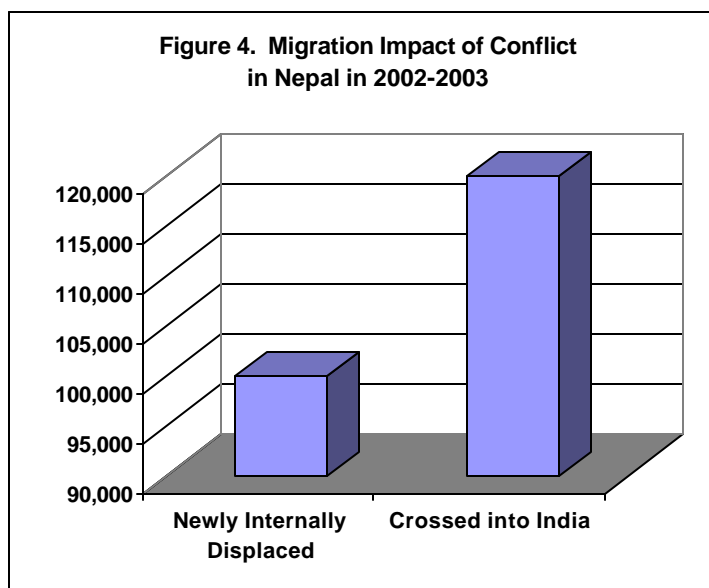
The data and inferences outlined above suggest that the term illegal migration has a dual meaning in South Asia covering both the illegal exit from one's country of origin and the illegal entry into another country. As Table 1 indicates, the chances that migration will be illegal increase when legal emigration is restricted. For example, Bangladeshi women who are abroad without legal migration status from their own country often face difficulties when they return home, whether they are returning from the Gulf or simply from India.

Illegal migration by women from Bangladesh and Nepal often increases their vulnerability as it reduces their willingness to seek support, for fear that their status will be detected.

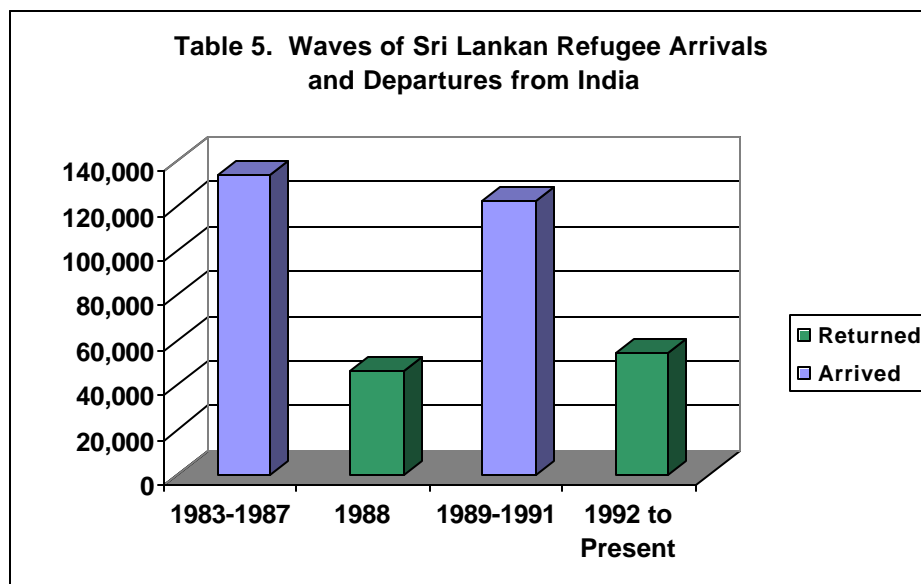
This creates difficult challenges for women from these two countries, especially those from Bangladesh, who migrate to the Gulf or to Asian countries, particularly Malaysia and Korea and find themselves either unwelcome or in abusive and exploitative situations. Equally difficult problems sometimes arise for female workers who stay home but work in free trade zones (FTZ) for foreign employers.

Table 1. Varieties of Legal and Illegal Migration from South Asia			
Departure from Home Country	Entrance into Destination Country	Example	Laws Violated
Legal	Legal	Sri Lankan woman or man entering Kuwait with a visa	None
Legal	Not Legal	Indian woman or man entering the United Arab Emirates without a proper visa	UAE Immigration law
Not Legal	Legal	Young Nepalese female crossing into India without proof of permission from her guardian.	Nepal's Foreign Employment Act, as amended in 1998. Women must present permission letters from fathers or husbands to cross a border, including the open border with India.
Not Legal	Not Legal	Bangladeshi female under the age of 35 exiting without a "clearance (exit) certificate" entering Bahrain to work as a domestic without a proper visa	General ban on women's migration of 1997 modified so that it applies only to those going out as domestic workers, with the exception of those who can prove they will be working for Bangladeshi employers abroad. Bahrain immigration law

Those forced to migrate due to political circumstance are also subject to similar vulnerabilities. Both the internal displacement of people in Nepal over the past few years and successive waves of internal migration and emigration from Sri Lanka's internal conflict illustrates that these numbers are not insignificant. Many of the women and children involved in these waves of migration are as likely to be abused as those who start their migration process with employment in mind.



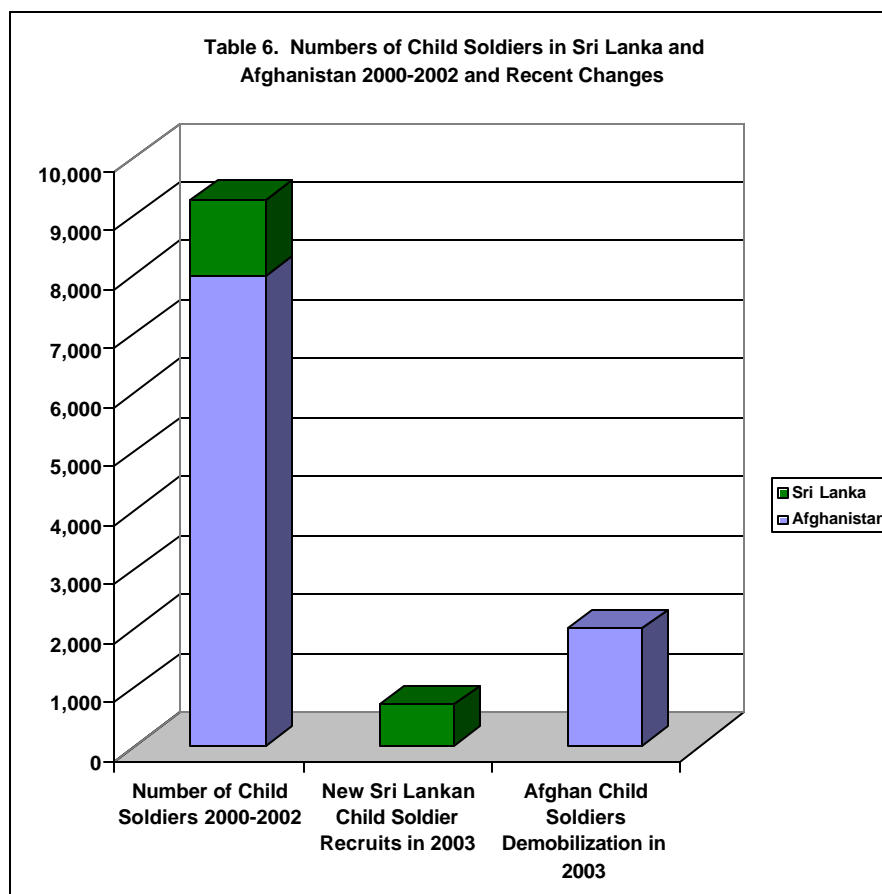
Source: nepalnews.com, June 2-26, 2003



Sources: UNHCR , BBC, Relief Web

Also of concern in the Sri Lankan context, and that of other countries where internal conflicts arise, is the abduction of children and recruitment processes that draw them directly into conflict as child soldiers, or as prostitutes behind the lines of battle. In both Sri Lanka and Afghanistan these numbers are large. The number of child soldiers in Sri Lanka is as serious a reason for action as the children trapped in sex trade in that country.

While programs aimed at making migration safe for workers going overseas on a temporary basis do not extend far enough in scope to address all of



Source: UNICEF

these situations, they are nonetheless linked to the broader range of issues that arise as a function of the movements of people.

An important resource for the development of safe migration programs is a series on “*Preventing Discrimination Exploitation and Abuse of Migrant Workers*” put out by the ILO Gender Promotion Program which draws the lessons of the programs world wide together in a series of “how to” guides.

Rule of Law: Trafficking and Other Forms of Violence against Women

While trafficking is not always the result of an adverse migration experience, survey data suggest that this point of vulnerability is one of the main openings used by traffickers in South Asia, who often pick up women and girls who want to leave abusive domestic situations. A rapid assessment carried out with trafficking victims in Nepal showed that 47% of victims had been lured by employment promises¹⁰. The Bangladesh rapid assessment reports that about 5% of the total girl child survivors of trafficking were trafficked through fake marriages or love affairs. India’s situation and its statistics are complicated by the fact that it is, simultaneously, a source, transit and destination country for trafficking.

Although the data available are limited, often taking the form of press clips, which UNIFEM has been collecting and analyzing for the past two years, it is clear that deception is by far the most frequent means by which traffickers snare their victims. Kidnapping and the sale of children by their parents play a role, as studies of returned victims and existing statistics suggests.¹¹

Many trafficking victims end up as virtual slaves in the sex trade. However, not all sex workers enter the trade unwillingly. Some who enter the sex trade do so voluntarily, viewing it as their only way out of an economically untenable situation. This makes it difficult to sort out trafficking statistics from sex trade statistics. Findings from a recent survey of prostitutes in Bangkok showed that 37% of those involved in prostitution “joined the sex trade because they went along with a pattern set by their friends.”¹² On the other hand, a recent and as yet unpublished survey of brothels in Mumbai makes the preliminary estimate that 95% of the girls in the brothels were placed there against their wills.

Legal responses to trafficking in all of the countries of South Asia emerge from legal and judicial systems adapted from the British. Constitutional provisions on human rights are no exception, although the constitutions of countries in the region differ from each other in important ways. While the original laws upon which current trafficking legislations are based date back as far as 1929, three of the four countries in the region have modernized their penal codes to explicitly address trafficking. Sri Lanka, where the incidence of trafficking is significantly lower than in India, Bangladesh and Nepal is the exception in this regard. All four of the countries in the region have specific legislation aimed at protecting children from exploitation and abuse. Trafficking laws in South Asia

as well as laws relating to migration and the manner in which violence against women and children is addressed through law are informed, throughout South Asia, by international conventions these countries have signed. The most recent arrival on the legal scene is the SAARC Anti-Trafficking Convention. As of March of 2004, the SAARC Convention had been ratified by all SAARC nations except Nepal and Sri Lanka, each of which at the moment is temporarily without a sitting legislature.

Some of the features common to trafficking laws and laws prohibiting violence against women in the region, which along with the relevant international conventions are outlined in detail in the annex on the Rule of Law, include:

- Selling, procurement, abduction and kidnapping are crimes with heavy penalties ranging from long prison terms to, in the case of Bangladesh, the death penalty.
- Running a brothel is illegal and criminal in all countries, though prostitution, as such, is not a crime in India or Bangladesh.
- Pornography in all its forms is prohibited.
- Rape is prohibited.
- Assault, battery and mayhem are prohibited.

With respect to children, specific laws apply which criminalize the:

- Trafficking and prostitution of children.
- Use of children for pornography, in any form.
- Use of children for sex tourism, which is specifically addressed in Indian and Sri Lankan law.
- Child marriage and the facilitation of the marriage of minors.

Laws in the region are less extensive with respect to the protection of victims. Generally speaking, the burden of proof lies with the victim in the South Asian legal systems. In both India and Nepal legislation tries to ensure women who will testify are provided safe custody prior to the trial. Indian law goes beyond this to provide for the creation of shelters for victims of trafficking and other serious forms of violence against women. Neither victim-witness protection nor the repatriation of victims stranded abroad are effectively addressed by the legal systems in the four countries on which SARI/Q focuses.

Despite laws that are reasonably well articulated, with respect to trafficking and other serious crimes against women and children, there is little to show by way of achievements, particularly with respect to halting trafficking. As Table 2 below illustrates, the magnitude of the trafficking problems facing Bangladesh, India and Nepal (no matter what set of numbers one utilizes) far outstrips accessibly documented arrests and convictions.

Table 2. “Working Numbers” on the Trafficking and Legal Response in 2002
(Estimates of Trafficking within Countries Shown in Italic)

Country	Women and Children Trafficked Annually ¹³			All Arrests	All Convictions
	Children	Women	Total		
BANGLADESH	4,500	10,500	15,000	60	30
INDIA	1,200		1,200	¹⁴ 122	¹⁵ 15
NEPAL	6,000	4,000	10,000	92	
SRI LANKA			500		
Total	11,700	14,500	36,700	274	45

The term “working numbers” simply means a rough average of the kind of figures reported by international and regional watchdog organizations, e.g., Global March; the U.S. Government, and country reports from numerous sources. What is important about even the crudest of averages is that it demonstrates the lack of an agreed upon “scorecard” on trafficking worldwide. Human Rights Watch complained in a public letter to U.S. Secretary of State, Colin Powell, that the absence of numbers in the world’s premier trafficking watchdog report was tantamount to letting the criminals off the hook. (www.hrw.org/press/2003/06/us062703ltr.htm)

Analyses that explore the reasons why adequate laws do not equate to effective solutions indicate that some of the problems in this regard are common across the region and include:

- Lack of police awareness of specific laws relevant for arresting traffickers and others that engage in violence against women. This results in misfiled cases that can prevent justice to the victims.
- The absence of adequate repatriation treaties and accords that leads to border guards resisting the return of a resident or arresting a victim. Repatriation problems affect not only the victim; they also have implications for the prosecution of cases against traffickers.
- Conflicts within the laws of individual countries and between them with respect of the definition of a minor. Moreover, the absence of birth registration procedures makes it difficult to establish age, which is relevant for both the charging of offenses and the determination of whether a marriage is legal.
- Lengthy court procedures, a crippling backlog of cases awaiting judgment, and a weak ability to enforce those judgments that are rendered.

- Witnesses turning hostile due to absence of victim-witness protection laws. A tendency to view a trafficking victim as a social outcast, and the involvement of criminal elements in the trafficking process, which often threatens the lives of victim witnesses.

Small programs have been initiated in several countries in the region, often by NGOs, to address these impediments. Most of these programs focus on police sensitization and training; there is a lesser number of programs with which SARI/Q is familiar that focus on improving the performance of prosecutors and judges. These are indicated in the tables in the Rule of Law annex.

Care of Victims

Once rescued from trafficking situations, victims have a range of needs, which differ for women and children. These include shelter, medical care, psychological support and counseling, reunification with their families, finding a way to restart their lives on a secure and sustainable footing and need to bring traffickers to justice.

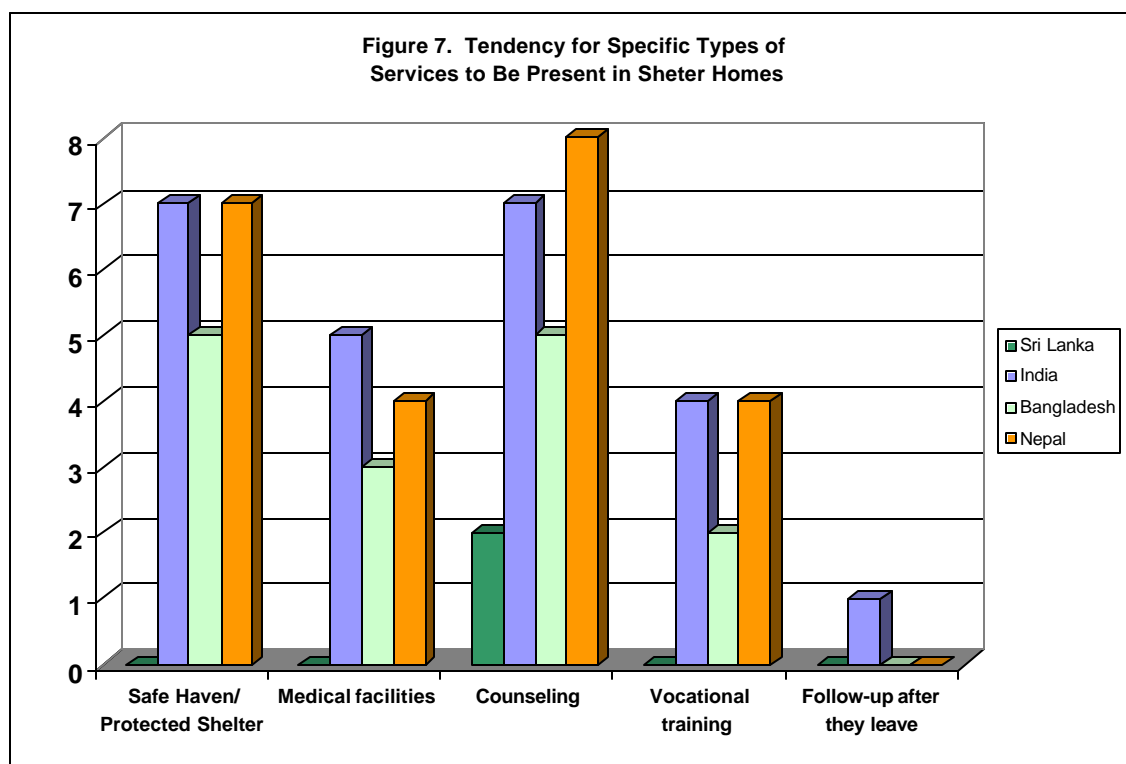
As noted above, the protection of victims as witnesses to the crimes is a neglected area in the law. It is also largely neglected from a service perspective. Given the paucity of models within the region, victim-witness protection is a field in which South Asia may need to at least explore state-of-the art approaches, such as the U.S. victim witness protection program (www.usdoj.gov/usao/nyw/victim_witness.htm) and those of other countries (www.vaonline.org/vw.html), while recognizing that, given their costs and differing socio-cultural contexts, external models invariably need to be adapted to South Asian circumstances.

Relatively more information is available regarding efforts that exist with respect to shelters and counseling for trafficking victims. With the apparent exception of India and Nepal, shelters for women and children who have been trafficked or otherwise abused have not been legally defined. In India, the trafficking law explicitly calls for the provision of “safe havens” for trafficking victims and the juvenile justice law provides for the care of children in shelters. Neither of these laws, however, make adequate reference to the standards to be met by such institutions. However, in India the responsibility for the implementation of provisions dealing with “safe havens” and shelters is explicitly given to the Department of Women and Child

Victim Witness Support in Europe

Trafficking in women in Germany is not legally defined, although almost all of the victims of trafficking are women. In the eyes of the German Criminal Code, trafficked persons can be of German or foreign origin, whether male or female, they are all equal victims. If after the police raid the woman makes a statement or there is evidence that she may be a trafficked person & if the public prosecutor's office considers her testimony to be important, she has special rights. If she decides against testifying, she must leave the country after this period of four weeks. If she decides to give evidence as a witness she is also granted a residence toleration & she can stay in Germany for one or two years. A woman may get a further toleration (up to even one or two year residence permit) after/or during court proceedings, if there is a concrete danger to her life, health or freedom in her country of origin & this can be proved. A witness protection program offers a woman safe accommodation & support in dealing with authority matters. Often women are afraid of threats by traffickers. They may be accompanied & protected by the police during the criminal proceedings. Within Germany, the woman is offered safe accommodation, she receives psychological and social care and support in contacting relevant authorities. Counseling centers organize her repatriation and arrange contact with women's projects in the countries of origin.

Development, Government of India. In Nepal, a provision of law calls for the “safe custody” of trafficking victims during the period of a trial, but as in the case of India, lays down no further guidelines for standards to be met when providing shelter.



Source: SARI/Q research

Data on the existence of shelters for women and children is not readily available, with the exception of numbers for government run shelters in India. Nonetheless, available information on NGO-run shelters and data on a shelter-by-shelter basis from the Internet has been sufficient for SARI/Q to put together a picture that indicates a wide range of coverage in these shelters, with respect to the kinds of services provided. All of them provide housing for their wards, and most provide some sort of counseling. Medical care and vocational training appear in approximately half of the shelters, as documented in the Care of Victims annex to this paper. However, follow-up on victims after their departure from a shelter home is not consistently a priority. Overall, there are few shelters that provide a full package of victim services. More important, perhaps, is the absence of a legal definition, or even an agreement in the NGO community, as to what the term “full package” of victim services should mean in the South Asian context.

Psychological counseling is the type of service most frequently provided according to the summaries of services SARI/Q has been able to access to date. Legal and social counseling appear about half as often in descriptions of these services, as the annex tables for Care of Victims indicates. To the extent it is provided, psychological counseling is most often present in India and Nepal, as its value to victims appears to be recognized in these nations. The limited literature that is available indicates that this sort of counseling

is relatively newer in Bangladesh, and has yet to gain wide acceptance as part of a package services. Data for Sri Lanka, where trafficking is less of an issue, is even less readily available.

Like victim witness protection, care of trafficked victims in shelters and through counseling, reintegration and empowerment programs may benefit from an examination of models and best practices from outside the region. At minimum, there is a need to examine the effectiveness of shelter and counseling programs in terms of fully reintegrating trafficked victims into society.

On the Road

On the Road, an NGO working in Italy with trafficking victims from the Balkans offers several different types of accommodations for victims of trafficking and other exploitative situations. These include emergency care shelters for first time stays; first care shelters for 2-3 month stays; an autonomy houses for victims taking part in reintegration activities. The Government of Italy provides support for these programs and a referral system for repatriation is being set up. On the Road also carries out research to ensure the appropriateness of its methods.

Conclusion

The information set forth above is provided as a foundation upon which the SARI/Q strategy can be built. We recognize that everyone who reads this paper is an expert in one or more of the fields addressed above and already knows everything set forth and, indeed, much more in his or her area(s) of expertise. The purpose of the paper is therefore merely to provide a baseline and framework, orienting participants in this strategy session to the parameters and aspirations of the SARI/Q program. Additions that participants suggest for its several annexes will be appreciated and incorporated in future versions.

Safe Migration Annex

International Agreements and National Laws

Safe Migration Programs of Governments and NGOs:

- Safe Journey
- Safe Stay
- Safe Return

National Treaties and Legislation Governing Cross-Border Labor Migration

Country	Legislation	Status, Features and Issues
BANGLADESH	<ul style="list-style-type: none"> Emigration Ordinance 1982 	<ul style="list-style-type: none"> Procedural aspects of emigration Licensing procedures for private recruiters Allows government to set minimum acceptable wages and working conditions for Bangladeshi migrant workers 1985 degree set minimum wages & condition on plantations in Malaysia 1986 decree set minimum wages for migrants working in Gulf States
	<ul style="list-style-type: none"> Decrees under the Ordinance 	
	<ul style="list-style-type: none"> Relevant Executive Decrees 	<ul style="list-style-type: none"> 1997 ban on migration of women under the age of 35 Modification of 1997 ban on female migrant labor, with the exception of women traveling to work as domestic laborers unless they work for Bangladeshi nations.
	<ul style="list-style-type: none"> Bangladesh Passport Act 	
	<ul style="list-style-type: none"> Bangladesh Entry Control Act 	<ul style="list-style-type: none"> Referenced in legislation for the Coast Guard, this Act appears to deal with the illegal entry of persons and goods.
	<ul style="list-style-type: none"> Bangladesh Immigration Act 	
INDIA	<ul style="list-style-type: none"> Emigration Act, 1983 	<p>People fall into two groups for emigration: (a) those eligible for an “emigration clearance not required” (ECNR) stamp in their passports who can travel at any time, and (b) those with an ECR stamp, these are low-skill, potentially vulnerable workers. They can obtain an emigration clearance (for 6 months) with a valid employment visa obtained thorough a licensed agent and proof that a required refundable security deposit equivalent to one-way airfare has been paid.</p>
	<ul style="list-style-type: none"> Proposed amendment 2002 	<p>Proposed amendment would establish:</p> <ul style="list-style-type: none"> A Central Manpower Export Promotion Council and An Indian Overseas Workers Welfare Fund <p>Labor Minister Sahib Singh reported that a committee is studying these proposals as part of the Emigration (Amendment Bill) 2002 and government was doing what it could to push this new legislation through (<i>various media, late 2003</i>)</p>
	<ul style="list-style-type: none"> Illegal Migrant Act, 1983 	<ul style="list-style-type: none"> Applicable only to the state of Assam. Illegal migration along the 262 km border with Bangladesh remains sufficiently high for the Governor of Assam to have written to the Prime Minister of India in 1998 that “As a result of population movement from Bangladesh, the spectre looms large of the indigenous population of Assam being reduced to a minority in their home state.”

Country	Legislation	Status, Features and Issues
	▪ Passport Act, 1967	
	▪ Foreigner's Act, 1946	
	▪ Treaty of Peace and Friendship between India and Nepal, 1950	▪ Border open for free entry and exit to citizens of both countries
NEPAL	▪ Foreign Employment Act, 1985, as amended, 1986	<ul style="list-style-type: none"> ▪ Regulates enterprises that provide foreign employment to Nepali citizens ▪ Amendment requires foreign employment agencies to obtain the approval of guardians and the Government of Nepal before women take up employment abroad. ▪ Nepalese migrant workers are required to pay 25% of one month's salary to foreign employment agencies as their fee. ▪ Foreign employment agencies are required to secure a minimum monthly income of \$250 for people they place overseas.
	▪ Department of Labor and Employment Promotion ban on female migration	<ul style="list-style-type: none"> ▪ 1998, banned exit of women from Nepal without permission of their guardian ▪ Partially revoked in 2003, still in force for the unorganized sector, particularly domestic laborers
	▪ Nepal Passport Act	
	▪ Immigration Act, 1992	
	▪ Treaty of Peace and Friendship between India and Nepal, 1950	▪ Border open for free entry and exit to citizens of both countries; for females, this treaty provision is superceded by subsequent bans on travel without permission.
SRI LANKA	▪ Immigration and Emigration Act, implementing provision 18 of the Citizenship Act, 1948, as amended, 2003	▪ Includes passport regulations
	▪ Bureau of Foreign Employment Act, 1985, as amended, 1994	<ul style="list-style-type: none"> ▪ License/regulate foreign employment agencies ▪ Set standards for contracts for migrant workers ▪ Provide assistance to persons going abroad as migrants, including training ▪ Provide for the welfare and protection of migrants while overseas ▪ Mandatory registration: "every Sri Lankan leaving for employment outside Sri Lanka shall, prior to leaving, register with the Bureau."

Resources for a Safe Journey

Country	Government Agencies	Private Firms	NGOs/Other Entities	Social/Family Networks
BANGLADESH	<p>Bureau of Manpower Employment and Training (BMET)</p> <ul style="list-style-type: none"> Registers and places job seekers (domestic and international) Develops curricula for training workers to meet market demands Provides training programs, including language training, and gives some training stipends, Collects/disseminates information on international labor market Briefs would be migrants and issues clearance certificates to those with employment contracts. <i>(BMET processes are reportedly time consuming)</i>¹ Monitors licensed private recruiting firms <p>Bangladesh Overseas Employment Services Limited (BOESL)</p> <ul style="list-style-type: none"> Created to take direct responsibility for recruitment for overseas positions, but reportedly Functions alongside private firms; website lists placements in 20 countries Survey data suggests it handles about 10% of migrants, and then 	<ul style="list-style-type: none"> 30% of all female migrants learn of job opportunities from private recruiters <i>(INSTRAW)</i> Female migrants who cannot get clearance certificates from BMET to leave for domestic labor jobs use private firms to get work visas, but not necessarily licensed firms. <i>(INSTRAW)</i> 650 licensed recruiting firms recruit 43% of all migrant workers³ <p><i>Bangladeshi Association of International Recruiting Agencies (BAIRA)</i></p> <ul style="list-style-type: none"> BAIRA claims 3 million placement between 1997 and 2001 Has two insurance programs one for workers, on for families staying behind, through the BIARA Life Insurance Company Limited. Provides short term pre-departure orientation and language training. 	<ul style="list-style-type: none"> <i>Christian Commission for the Development of Bangladesh (CCDB)</i> and <i>SHISHUK</i> both provide some training for migrant workers, including HIV/AIDS awareness training <i>(INSTRAW)</i> <i>Welfare Association of Repatriated Bangladeshi Employees (WARBE)</i> provides some counseling and referrals to potential migrants and lobbies for migrant worker rights. Survey research indicates that a small percent of female migrants borrow expenses for migration from NGOs. Families repay with remittances. <i>(INSTRAW)</i> <i>Naripokkho</i> has disseminated the Human Rights Watch report on Bangladeshi domestic workers in the Middle East. <i>(INSTRAW)</i> Dhaka University research institute, the Refugee and Migratory Movements 	<ul style="list-style-type: none"> Roughly 20% of migrants obtain their visas and contracts through these informal channels <i>(INSTRAW)</i> High fees & other migration costs force migrants to take loans from extended family or friends, or families to sell some property to finance travel. Families repay with remittances. Clear evidence in the Rupganj region of a demonstration effect wherein the success of one female migrant to an electronic assembly plant in Malaysia resulted in 50 more migrants from the same locale migrating to Malaysia <i>(INSTRAW)</i>

Country	Government Agencies	Private Firms	NGOs/Other Entities	Social/Family Networks
	<p>only urban migrants (<i>INSTRAW</i>)²</p> <p>Wage Earner Welfare Fund, under the Expatriates' Welfare and Overseas Employment Ministry:</p> <ul style="list-style-type: none"> Migrants make payments into this fund, initially with BMET and then at embassies overseas. 2003 embezzlement scandal. 	<ul style="list-style-type: none"> Led opposition to the ban on all female labor migration in 1997 with a public letter to the Prime Minister. 	<p>Research Unit (RMMRU) has carried out studies, is an advocate of Bangladeshi migrant worker rights, and has developed a draft model law for the protection of migrant workers. (INSTRAW)</p>	
INDIA	<p>Department of Labor, Emigration Division:</p> <ul style="list-style-type: none"> Licenses/regulates international employment recruiting firms, keeps database of firms (RAIS) Keeps data base of blacklisted employers overseas. <p>Protectorate of Emigrants:</p> <ul style="list-style-type: none"> Issues emigration clearance stamps <p>India's border guards are lighting segments of the India-Bangladesh border where trafficking is known to be a problem, as is illegal migration into India.</p> <p>State of Kerala, Department of Non-Resident Keralites Affairs (NORKA)</p> <ul style="list-style-type: none"> Drive against illegal migration 	<ul style="list-style-type: none"> International employment recruiting agencies are listed in the government's RAIS, but the total is not accessible from the website. Seven international employment recruiting firms had their licenses revoked in 2000 	<ul style="list-style-type: none"> <i>Tamil Nadu's Women's Forum</i> has a "hot line" for migrant workers, helping them when they learn they have received forged emigration documents from unethical recruitment agents. NGO-run HIV/AIDS programs that focus on migrant workers (domestic and international) natural allies for other "safe migration" initiatives. 70 such NGOs, from all parts of India, are listed by <i>SAATHII (Solidarity and Action Against the HIV Infection in India)</i>⁴ There is a domestic workers union in Mumbai that 	<ul style="list-style-type: none"> Migration patterns evident in Indian statistics suggest that social networks play a significant role in migration destination choices.

² *Temporary Labor Migration of Women: Case Studies of Bangladesh and Sri Lanka* (2000)

³ Sakiul Millat Morshed, Pre-departure, Reintegration and Policy Advocacy in the Migration Process, SHISUK and Coordination of Action Research on AIDS and Mobility (CARAM), Bangladesh

⁴ www.saathii.org/hiv_services/migrantworkers.html

Country	Government Agencies	Private Firms	NGOs/Other Entities	Social/Family Networks
	<p>State of Tamil Nadu, Overseas Manpower Corporation, Ltd (OMC)</p> <ul style="list-style-type: none"> Registered with the Department of Labor Computer bank of job seekers Organizes placements Arranges passports, transportation, insurance. 		addresses policy issues involving domestic workers.	
NEPAL	<p>Ministry of Labor and Transport Management (MoLTM), Department of Labor and Foreign Employment Promotion</p> <ul style="list-style-type: none"> Regulates private recruiting firms Recently capped the fees private recruiting agencies can charge Receives requests from foreign employers and refers them to private firms Participates in final interviews for migrant workers and terms and conditions of contracts <p>Nepal's manpower agencies are located only in Kathmandu.</p> <p>Ministry of Women, Children and Social Welfare (MWCSW) is charged with support to migrants on migrant rights.</p>	<p>Licensed firms describe their work as including:</p> <ul style="list-style-type: none"> Providing information about foreign work opportunities, generally through media Recruit against specific jobs Handle documentation including contracts for Nepali workers (<i>Sigma Overseas Manpower Pvt. Ltd. website</i>) Extent to which these firms are used cannot be determined from available documentation. Firms provide orientation to migrants on destination countries. These orientations are missed by female migrants who travel illegally (G.Gurung)⁵ 	<ul style="list-style-type: none"> <i>Nepal Institute for Development Studies</i> conducted a workshop on improving pre-departure, post-arrival and reintegration experiences for migrant workers in 2000. <i>The NGO Federation</i> has carried out a "safe migration" training for employment agencies and has counseling booths for migrants in two District Offices. (<i>Asia Foundation, 2003</i>) <i>The Women's Rehabilitation Center (WOREC)</i> is coordinating with the Department of Labor to develop an information packet for migrants, it has developed two posters and a sticker on "safe migration" (<i>Asia Foundation, 2003</i>) 	<ul style="list-style-type: none"> Census data indicate that 77% of all migration from Nepal is to India (2001) and appears to be concentrated in four states: Uttar Pradesh, Bihar, Assam and West Bengal, strongly suggesting that social/family networks play a significant role in the migration process. (B. Kumar, 2003)⁶

⁵ Ganesh Gurung, Patterns of Foreign Employment and Vulnerability of Migrant Workers, Nepal Institute of Development Studies, 2000.

⁶ Bal Kumar, Migration, Poverty and Development in Nepal, for the Economic and Social Commission for Asia and the Pacific, August, 2003

Country	Government Agencies	Private Firms	NGOs/Other Entities	Social/Family Networks
			<ul style="list-style-type: none"> ▪ <i>Girls Access to Education (GATE)</i> is a World Education program for illiterate, out of school girls that includes lessons about the dangers of trafficking, safe migration and HIV/AIDs. ▪ <i>Matit</i>, the Center for Legal Research and Resource Development, the NGO Federation of Nepal and other NGOs engaged in anti-trafficking awareness raising programs. ▪ UNIFEM media campaign 	
SRI LANKA	<p><i>Sri Lanka Bureau of Foreign Employment (SLBFE)</i>, with 15 regional offices:</p> <ul style="list-style-type: none"> ▪ Regulates private recruiting firms. ▪ Develops model contracts and reviews agreements with foreign entities ▪ Maintain an information bank on all overseas migrants, based on mandatory registration. SLBFE estimates that 70% of migrant women register as of 1999, up from 40% in 1994. ▪ Since 1996 provides compulsory pre-departure orientation and functional literacy tests for 	<ul style="list-style-type: none"> ▪ 570 licensed recruitment agencies registered with SLBFE as of 1999, of which 60% operate out of Colombo and the rest from other parts of the country. ▪ Private recruiters handled 75% of all migrants in 1997. (<i>INSTRAW</i>) ▪ In 2000, the SLBFE received 1,261 complaints about fraudulent recruitment agencies and filed 120 cases against those agencies. (<i>GENPROM</i>) 	<ul style="list-style-type: none"> ▪ <i>All Ceylon Federation of Free Trade Unions (ACFFTU)</i> provides pre-migration training for female migrants, using SLBFE curriculum and trained trainers. (<i>INSTRAW</i>) ▪ <i>The National Workers Congress</i> provides skill training for migrants and assistance in obtaining loans from banks and other lending institutions. (<i>INSTRAW</i>) ▪ ACTFORM, a network of NGOs provides a variety of 	<ul style="list-style-type: none"> ▪ Given the large percentage of placements registered with SLBFE and handled by licensed recruiters, this is not a primary mechanism for migration arrangements, though the size of the migrant workforce makes it likely that a lot of information on the process and experience flows informally.

7

ILO, GENPROM Working Paper 9: Sri Lanka: Good Practices to Prevent Women Migrant Workers from Going into Exploitative Forms of Labor, by Malsiri Dias and Ramani Jayasundere.

Country	Government Agencies	Private Firms	NGOs/Other Entities	Social/Family Networks
	<p>women (not men) of between 12-20 days, at 25 centers throughout Sri Lanka, training 36,841 women in 1999. (<i>GENPROM</i>)⁷</p> <ul style="list-style-type: none"> Survey data show that 41% of migrants had pre-departure training for years covered by the INSTRAW survey. Provides optional pre-departure medical exams and has proposed they be made mandatory. <p>National Insurance Corporation Limited:</p> <ul style="list-style-type: none"> Administers to <i>Jathika Suraksha</i> Overseas Employment Insurance program in which migrants registered with SLBFE are enrolled. As of 1995, 104,000 policies were in place. (<i>GENPROM</i>) <p>Sri Lanka Export Credit Insurance Corporation (SLECIC):</p> <ul style="list-style-type: none"> Provides bank guarantees for loans made to migrants to cover the costs associated with migration. Migrants pay an up-front premium and utilization remains low, 798 loans guaranteed, 1997-2001 (<i>GENPROM</i>) Embassies of Sri Lanka in Gulf States, Singapore and Hong Kong; based on MOUs, Sri Lankan embassies review employment contracts 	<ul style="list-style-type: none"> In 1999, it reported 31 illegal agencies to the police and cancelled 98 licenses for non-compliance with SLBFE regulations. (<i>GENPROM</i>) <p><i>[These facts appear to suggest how serious SLBFE is rather than that Sri Lanka has more unregistered and unethical recruiting firms than do other SAARC countries.]</i></p>	<p>training and information services for migrants on a predeparture basis (as listed in Dias)</p>	

Resources for a Safe Stay

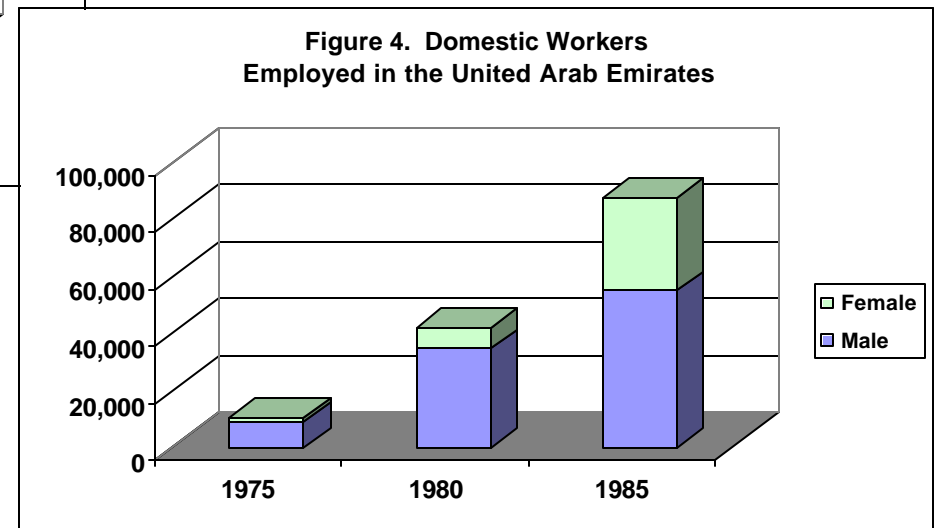
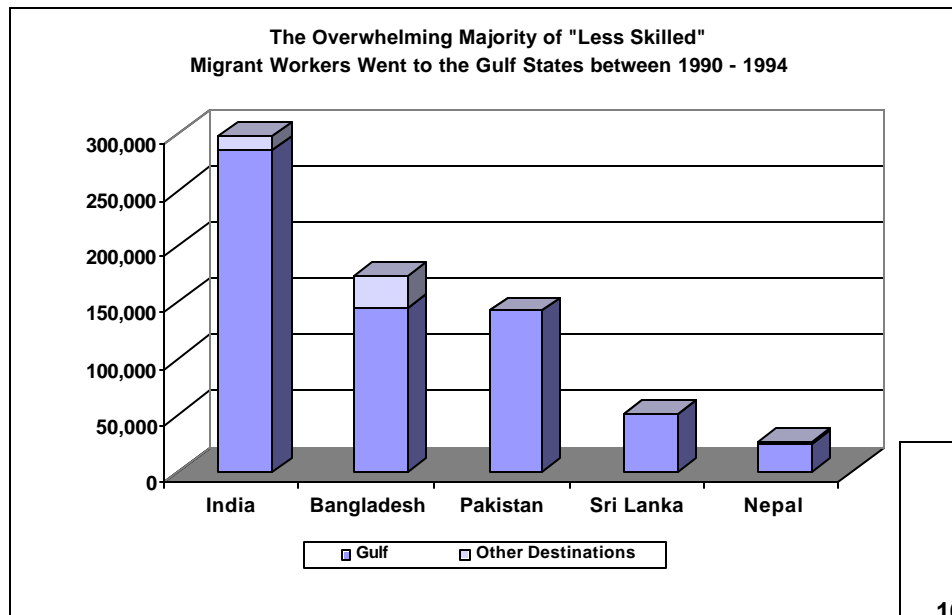
(Also see separate tables on destination country resources)

Country	Home Government Programs	NGOs/Other Entities	Social/Family Networks
BANGLADESH	<ul style="list-style-type: none"> ▪ In 2002, Government of Bangladesh intervened when illegal female Bangladeshi workers were stranded in Malaysia, resulting in amnesty and regularization of their work status. ▪ Survey results show that of 46 migrant workers that sought help from the Bangladesh Embassy while overseas, the Embassy was able to provide help to 22 of them (48%), but others in the sample of 150 did not know that a Bangladeshi mission existed in their country of employment. Assistance provided by the Embassies was not consistent, e.g., some non-payment cases were assisted, others were not (<i>INSTRAW</i>) 	<ul style="list-style-type: none"> ▪ <i>Welfare Association of Repatriated Bangladeshi Employees (WARBE)</i> has called for the creation of a migrant bank through the Wage Earners Welfare Fund to provide better service to expatriate workers when they need it, saying that embassies do not always respond to migrant worker needs (<i>Daily Star</i>) ▪ <i>Bangladesh Migrant Center</i> has an office in Ansan, South Korean where it monitors the treatment of Bangladeshi workers. Through local partners it provides shelter and counseling to laid off workers; medical services and language training ▪ Survey indicates that the majority of migrant workers (86%) used official bank checks or wire transfers to send money home (<i>INSTRAW</i>) 	<ul style="list-style-type: none"> ▪ Survey data shows that some female migrants took their problems to other Bangladeshi migrants, male or female. (<i>INSTRAW</i>)
INDIA	High Commission of India in Singapore issues special guidelines for Indian maids seeking employment in that country, that includes information on what to do in case of ill treatment. Names and phone numbers of five shelters are provided. Available on-line.		

Country	Home Government Programs	NGOs/Other Entities	Social/Family Networks
NEPAL	<p>Embassy in Saudi Arabia with responsibility for six countries in the Gulf</p> <p>Nepal has no bilateral labor agreements with countries where their citizens are employed, though one has been under discussion with Qatar since 1998</p>	The General Federation of Nepalese Trade Unions (GEFONT) bulletin says that it has started to organize migrant workers support groups in Hong Kong, South Korea, Japan, India and some of the Gulf countries.	
SRI LANKA	<p>Responsibility for the protection of overseas workers is shared between SLBFE, the Ministry of Foreign Affairs and the Ministry of Labour</p> <p>Officers posted at Sri Lankan embassies with specific responsibility for mediating grievances that arise in connection with overseas employment.</p> <p>SLBFE engages directly in following up on complaints that Sri Lankan nationals make at their embassies overseas. Through the Labor Division attaches in its embassies such things as back pay have been successfully negotiated.</p> <p>SLFGE has a shelter in Abu Dhabi and, as of 2001, was planning to open one in Kuwait as well (Dias and Jayasundere)</p>		

Resources for a Safe Stay in Gulf Countries

- An estimated 75% of all migrant workers from South Asia work in Gulf Countries
- Gulf Countries vary substantially with respect to the programs they provide for foreign migrants.



Migrant Assistance/Support Programs in Selected Gulf States

As reported by the U.S. Department of State, 2003

United Arab Emirates	Saudi Arabia	Kuwait	Bahrain	Quatar
<ul style="list-style-type: none"> ▪ Dubai Police Human Rights Department conducted an outreach program to foreign embassies to explain their migrant assistance programs in 2003. ▪ 24 hour tourist security hotline ▪ Ministry of Labor and Social Affairs distributes information booklet on rights of foreigners under labor law, including contact numbers ▪ Minister of State for Foreign Affairs has sought assistance of sending country embassies in stopping trafficking ▪ Government has provided amnesty periods during which illegal workers could leave without being charged under criminal law. ▪ Law passed banning use of camel jockeys and English/Arabic 	<ul style="list-style-type: none"> ▪ Ministries of Labor and Interior work closely with counterparts from Sri Lanka and the Philippines on foreign labor issues ▪ Awareness campaigns advising abused foreign workers to seek refuge in government-sponsored shelters ▪ Brochures on support services distributed to workers in their own languages on arrival, including how to report abuse ▪ Foreign workers required to use only licensed employment agencies ▪ National Recruitment Committee unified labor contract in place ▪ Special program for Sri Lankan domestic workers on their rights and assistance phone number ▪ Senior religious figure engaging in warning local population that abuse is not consistent with Islam. ▪ Law against sex outside of marriage has been used 	<ul style="list-style-type: none"> ▪ Inter-ministerial task force on trafficking,, but no specific law on trafficking exists. ▪ Works with embassies to resolve labor disputes involving foreign workers ▪ Standard contract language required including rights of workers ▪ Law requires camel jockeys to be at least 18 ▪ Police investigate cases of mistreatment of foreign workers ▪ Laws allow trafficked workers to seek redress against traffickers ▪ It is illegal to withhold a foreign worker's passport ▪ Government has taken employers to court for non-payment of wages and blacklisted some ▪ Over 4,000 Kuwaiti sponsors of domestic workers have been blacklisted for not 	<ul style="list-style-type: none"> ▪ Distributed manual on rights and duties of foreign workers to embassies ▪ Distributes simpler version of manual to workers in their own languages ▪ Media campaign about the manual ▪ Increased number of labor inspectors to validate that the numbers of visas requested by employers were valid. ▪ Reformed work rules for foreigners to allow change of jobs with a "no objection" letter from original employer, legalizing movement out of abusive situations. ▪ Active investigation of allegations of abuse and prostitution. ▪ Laws allow trafficked workers to seek redress against traffickers ▪ In extreme cases, provides shelter to abuse 	<ul style="list-style-type: none"> ▪ Government works with embassies of South Asian countries to resolve labor disputes ▪ Strict immigration controls have kept trafficking low ▪ Labor contracts also strictly enforced ▪ 24 hour hotline staffed by Ministry of Interior and Supreme Court personnel to advice women and children in abusive situations. ▪ New minimum weight set for camel jockeys

<p>English/Arabic awareness; government working closely with governments of Pakistan and Bangladesh on repatriation of camel jockeys. Campaign undertaken</p> <ul style="list-style-type: none"> ▪ Annual physical exams required for foreign employees and counseling services area available in hospitals ▪ Victim assistance desks at police stations as well as shelter separate from jails. ▪ Blacklisted 215 companies for labor violations involving work permits ▪ Mandatory courses for judges in human rights. 	<p>marriage has been used against some abusive employers</p> <ul style="list-style-type: none"> ▪ Social Welfare Office mediations involving foreign employees reportedly runs in favor of the employee (90% of the time) ▪ Crack down on loopholes that allowed employers to obtain extra visas ▪ Moroccan trafficking ring recently busted. ▪ Shelters called Welfare Camps in three largest cities for abused or trafficked women and runaway domestics; foreign embassies have access to their citizens staying in these shelters 	<p>providing contract benefits.</p> <ul style="list-style-type: none"> ▪ Strong penalties for persons heading prostitution rings; Bangladeshi man convicted on this charge 	<p>victims</p> <ul style="list-style-type: none"> ▪ Emergency medical treatment is available to anyone. 	
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Resources for a Safe Stay

Illustrative Indigenous Destination Country NGO Assistance for Migrant Workers and Trafficking Victims

Country	NGO
Japan	<ul style="list-style-type: none"> ▪ <i>Asian People Together</i> lobbies against trafficking of foreign women into Japan ▪ <i>CHARM</i> serves the medical needs of vulnerable migrant women, and provides HIV/AIDS testing in the Osaka-Kyoto-Kobe region ▪ <i>SHARE</i> in the Tokyo are focuses on the health and medical care of migrants from Thailand, Cambodia an East Timor ▪ <i>JFC Supporting Network</i> Assists Filipino women and their abandoned children fathered by Japanese husbands ▪ <i>Foreign Workers Branch of Zentoitsu Labor Union</i> provides worker assistance. Languages include Bengali and Urdu
Hong Kong	<ul style="list-style-type: none"> ▪ <i>Mission for Filipino Migrant Workers (MFMW)</i> assists Filipino migrant workers in distress. ▪ <i>Amnesty International Malaysia Group</i> lobbies for rights of migrant workers and takes specific cases where charges have been levied against a national.
Korea	<ul style="list-style-type: none"> ▪ <i>Bangladesh Migrant Center</i> has an office in Ansan, South Korean where it monitors the treatment of Bangladeshi workers. Through local partners it provides shelter and counseling to laid off workers; medical services and language training
Greece	<ul style="list-style-type: none"> ▪ <i>Piraeus Center</i> provides assistance to migrant workers ▪ <i>STEKI METANASTON</i> provides shelter and assistance to trafficking victims
England	<ul style="list-style-type: none"> ▪ <i>RESPECT</i>, a London based NGO that emerged out of association with a Filipino NGO promotes a non-victim approach for female migrants who have experienced abuse.
Italy	<ul style="list-style-type: none"> ▪ <i>Association PARSEC</i> in Rome provides assistance to trafficking victims
Other NGOs in Western Countries	<ul style="list-style-type: none"> ▪ http://www.focus-on-trafficking.net/inside.php?page=advice:assistance:organizations
Multi-Country	<ul style="list-style-type: none"> ▪ Help Radio in the Philippines tries to deal with inquiries from foreign laborers passed to it by their families.

Resources for a Safe Return

Country	Home Government	NGOs/Other Entities	Social/Family Networks
BANGLADESH	<p><i>Bureau of Manpower Employment and Training (BMET):</i></p> <ul style="list-style-type: none"> Facilitates the repatriation of workers in case of war or other emergencies and negotiates on their behalf for compensation (<i>INSTRAW</i>) <p><i>Embassy of Bangladesh in Thailand</i> has assisted detainees, but does not pay for return tickets.</p>	<ul style="list-style-type: none"> <i>Welfare Association of Repatriated Bangladeshi Employees (WARBE)</i> has called for the creation of an immigration service center for returned migrants and relief from the travel tax. (<i>Daily Star</i>) NGOs (<i>Ain O Shalish Kendra (ASK)</i>, <i>Bangladesh Society for the Enforcement of Human Rights (BSEHR)</i> and the <i>Bangladesh National Women Lawyers Association (BNWLDA)</i>) all report having provided legal and other types of assistance to returned migrant workers. Both ASK and BNWLA have hosted workshops on migrant worker issues. <i>Bangladesh Migrant Center</i> maintains a database of Bangladeshi workers returned from Korea and helps them get jobs with Korean firms in Bangladesh Export Processing Zones 	<ul style="list-style-type: none"> Survey results show that in the majority of cases where a worker returned home before the end of her contract (usually 2 years), the problem was employer related, either verbal or physical abuse or non-payment of wages. (<i>INSTRAW</i>)

Country	Home Government	NGOs/Other Entities	Social/Family Networks
INDIA	<p><i>Labor and Welfare Wing, Indian Embassy in the UAE.</i></p> <ul style="list-style-type: none"> Helps with labor contracts, complaints of Indian workers, locating Indian's in UAE for their families, and intervenes when Indian nations have problems with local authorities. <p><i>Government of India</i>, in response to Indian diaspora, introduce a "Person of Indian Origin" card to ease return in 1999, but only about 1,100 have applied so far.</p> <p>State of Kerala, NORAK</p> <ul style="list-style-type: none"> Emergency repatriation fund Assistance to those who overstayed and had assistance desk at airport for return of 5,000 from Gulf Assistance in obtaining compensation Legal assistance and distress fund <p><i>Indian Overseas Welfare Fund</i></p> <ul style="list-style-type: none"> Helps stranded emigrants with injuries, illness, return tickets and transportation of a dead body 	<ul style="list-style-type: none"> <i>Tamil Nadu's Women's Forum</i> assisted with the rescue of 22 Indian workers stranded in Malaysia with fake documents purchased from recruiting agents and called upon the Indian Government to check papers more carefully and establish a special office for migrant workers in the Indian Embassy in Malaysia 	
NEPAL	At the policy level, Nepal has decided to place Labor Attaches wherever it has 5,000 or more workers, but this has not been implemented and in some countries there is no embassy.		

Country	Home Government	NGOs/Other Entities	Social/Family Networks
SRI LANKA	<p>Consular division at embassies will intervene to deal with underpayment of salaries, harassment, ill treatment, or denial of basic facilities.</p> <p>Embassies provide repatriation services as well as issuing passports to those who have lost them or had them withheld by employers. (Dias)</p> <p>Bank of Ceylon has two credit programs for migrant workers.</p> <p>There is a Government Migrant Assistance Center (MAC) near the international airport that helps people returning on a crisis basis, i.e., sick, injured, forcibly repatriated or without money (Dias)</p>	<p>INSTRAW research found:</p> <ul style="list-style-type: none"> ▪ <i>All Ceylon Federation of Free Trade Unions (ACFFTU)</i> conducts rehabilitation and counseling programs for women returnees experiencing ill-effects of their migration, moving them into micro-enterprises ▪ <i>Women in Need (WIN)</i> provides services to migrant returnees who are mentally or physically traumatized. ▪ <i>National Workers Congress</i> has helped organize associations of women returnees in two towns, assisting returnees in investing in self-employment ventures ▪ <i>The American Center for International Labor Solidarity (ACLIS)</i> has a pilot “safety net” project for returned migrants. ▪ The Migrant Service Center has a hotline for returnees and provides legal advice. ▪ Women in Need provides counseling services to returnees. ▪ Some church based organizations provide shelter. 	

Rule of Law Annex

National Laws

Programs for Improving Implementation

- Police
- Prosecutors
- Courts

Trafficking Issues Covered Under Law

(This is not yet a comprehensive list, additions are welcome)

Bangladesh	India	Nepal	Sri Lanka
Trafficking			
<ul style="list-style-type: none"> ▪ Criminal penalties for kidnapping, abduction, slavery, forced labor, rape, wrongful confinement, 	<ul style="list-style-type: none"> ▪ Criminal penalties for kidnapping or abduction for various purposes ▪ Criminal penalties for buying and selling of a person for slavery 	<ul style="list-style-type: none"> ▪ Prohibits the taking of persons out of the country by fraud or incitement, for the purpose of selling them ▪ Prohibits slavery and bonded labor ▪ Imposes criminal penalties for enticing minors away from their legal guardians, rape, assault and other forms of abuse ▪ Prohibits foreign employment of both minors and women without the permission of both the government and the minor's or woman's guardians 	<ul style="list-style-type: none"> ▪ Prohibits illegal foreign adoption ▪ Buying, selling or bartering of any person for money or for any other consideration is crime⁸
Prostitution			
<ul style="list-style-type: none"> ▪ Not strictly prohibited for females above the age of 18 years 	<ul style="list-style-type: none"> ▪ Living on the earning of prostitution is illegal, which includes brothel owners, pimps and others besides prostitutes ▪ Procuring a person for prostitution, with or without consent is criminal ▪ Prostitution in or near a public place ▪ Soliciting for prostitution 	<ul style="list-style-type: none"> ▪ Prostitution is Criminalized ▪ Having sexual intercourse with a prostitute is a crime 	<ul style="list-style-type: none"> ▪ Prostitution is Illegal ▪ Sex between two men is illegal ▪ Procurement or attempt to procure any person of whatever age to become, within or outside Sri Lanka, a prostitute is an offence

⁸ <http://www.interpol.int/Public/Children/SexualAbuse/NationalLaws/csaSriLanka.asp>

Bangladesh	India	Nepal	Sri Lanka
Pornography			
<ul style="list-style-type: none"> ▪ Making and selling is illegal ▪ Use of children in pornography is a crime 	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ Production, sale and supply of vulgar pictures, publications or other materials is a crime 	<ul style="list-style-type: none"> ▪ Bans obscene publications, exhibitions, indecent photography or filming/video taping
Support to Victims			
<ul style="list-style-type: none"> ▪ Permits a case to proceed without a police report ▪ Fines collected given to victims as compensations 	<ul style="list-style-type: none"> ▪ Permits police to rescue any person from a place where prostitution is believed to be taking place ▪ Authorizes state governments to establish protective homes, corrective institutions and special courts ▪ Magistrates have a discretion to send rescued child or a minor in an authorized custodial institution 	<ul style="list-style-type: none"> ▪ Free legal aid to victims (proposes) ▪ 50% of the collected fine to be granted to victims (proposes) 	
Victim Witness Protection			
<ul style="list-style-type: none"> ▪ Prohibits the disclosure of the identities of women and child victims by the media ▪ Placement of women or children in safe custodial arrangements during the trial of an offence 	<ul style="list-style-type: none"> ▪ Prohibits the disclosure of the identities of child victims by the media 	<ul style="list-style-type: none"> ▪ In camera legal proceedings to protect victims (proposes) 	
Running a Brothel			
<ul style="list-style-type: none"> ▪ Criminal penalty for buying or procuring a minor girl into a brothel 	<ul style="list-style-type: none"> ▪ Keeping a brothel or allowing premises to be used as a brothel ▪ Detaining a person in a brothel or other premises for prostitution, with or without consent ▪ Seducing a person for prostitution while in custody 	<ul style="list-style-type: none"> ▪ Running a brothel is a crime ▪ Use of any premises or vehicles in connection with the traffic in human beings is a crime (proposes) 	<ul style="list-style-type: none"> ▪ Running a brothel is illegal
Child Prostitution			

Bangladesh	India	Nepal	Sri Lanka
<ul style="list-style-type: none"> ▪ Criminal penalties for selling or buying of minors for prostitution ▪ Crime for girls less than 18 years ▪ Imposes penalties for detaining a girl under 18 years against her will in a place of prostitution or for encouraging or abetting the prostitution of a girl under 18 years 	<ul style="list-style-type: none"> ▪ Prohibits all forms of sexual abuse and involvement of child in sex tourism ▪ Prohibits child prostitution 	<ul style="list-style-type: none"> ▪ Prohibits engaging or using a child in an immoral profession 	<ul style="list-style-type: none"> ▪ Procurement of children for sexual exploitation is punishable ▪ Hiring, employment, persuasion, use, inducing or coercing a child or to procure any person for illicit sexual intercourse is a crime
Child Marriage			
<ul style="list-style-type: none"> ▪ Penalizes male adult who marries a girl under 16 years ▪ Penalizes any parents/guardians who facilitate this crime 	<ul style="list-style-type: none"> ▪ Penalizes male adult who marries a girl under 16 years ▪ Penalizes any parents/guardians who facilitate this crime 	<ul style="list-style-type: none"> ▪ Child marriage (below 16 years for girls) is prohibited ▪ Girl between 16-18 years can marry with the consent of her guardians ▪ Girls above 18 can marry on their own 	<ul style="list-style-type: none"> ▪ Three different laws regulating the minimum age for marriage ▪ Allows marriage of a 12 year old child with consent from her parents
Cruelty to Children			
<ul style="list-style-type: none"> ▪ Penalties use of children for begging, luring children into a brothel and other types of exploitation 	<ul style="list-style-type: none"> ▪ Cruelty such as assault, abandonment, exposure or neglect so that it causes physical or mental suffering is punishable 	<ul style="list-style-type: none"> ▪ Prohibits the use of children in pornography and other immoral acts 	
Penalties for different crimes			
<ul style="list-style-type: none"> ▪ Life or rigorous imprisonment between 7-14 years for abduction, kidnap ▪ Fine and imprisonment up to 10 years for trafficking a minor girl ▪ Capital punishment for offenders and debars them from getting a bail 	<ul style="list-style-type: none"> ▪ Imprisonment between 1-3 years and fine up to 2000 rupees for running a brothel ▪ Imprisonment between 7-10 years or for life for putting a minor into prostitution 	<ul style="list-style-type: none"> ▪ Imprisonment between 3 months to 3 years and fine up to 5000 rupees for marrying or helping to marry a girl child ▪ Imprisonment up to 1 year and fine up to 500 rupees for raping a prostitute ▪ Imprisonment between 10-15 years for enticing a women into prostitution 	<ul style="list-style-type: none"> ▪ Imprisonment between 2 to 20 years for trafficking a person ▪ Imprisonment between 5 to 20 years for sexual abuse of a child or procuring a child for sexual abuse

Bangladesh	India	Nepal	Sri Lanka
		<ul style="list-style-type: none"> Imprisonment between 5-10 years for taking a person abroad for sale 	
Repatriation			
<ul style="list-style-type: none"> No treaties with other countries Lot of rescued victims are awaiting repatriation in neighboring countries like India 			<ul style="list-style-type: none"> Counselor division manages repatriation with the help of high commissions in other countries

International Commitments of SARI/Q Countries

International Commitment	Bangladesh	India	Nepal	Sri Lanka
▪ United Nations Convention of the Elimination of All Forms of Discrimination Against Women	▪ Ratified in 1984	▪ Ratified in 1993	▪ Ratified in 1991	▪ Ratified in 1980
▪ United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	▪ Signed in 1998 but not yet ratified	▪ Not signed	▪ Not signed	▪ Ratified
▪ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	▪ Not signed	▪ Signed in 2002	▪ Not signed	▪ Signed in 2000
▪ SAARC Convention Preventing and Combating Trafficking in Women and Children for Prostitution	▪ Signed in 2002 ▪ Ratified	▪ Signed in 2002 ▪ Ratified	▪ Signed in 2002	▪ Signed in 2002
▪ Jakarta Recommendations for Action on Recognizing, Protecting & Empowering Women Migrant Workers in Asia	▪ Signed in 2003	▪ Did not participate	▪ Signed in 2003	▪ Signed in 1999
▪ Bangkok declaration on Irregular Migration	▪ Signed in 2003	▪ Not participated	▪ Did not participate	▪ Signed in 2003

Laws/Act Directly Related to Trafficking

(This is not yet a comprehensive list, additions are welcome)

Law/Act	What it covers	Victims Support	Problems in Enforcement
BANGLADESH			
<ul style="list-style-type: none"> Constitution 	<ul style="list-style-type: none"> Rights of equality and equal protection Right to protection of the law Prohibition of forced labor Torture and cruel, inhuman or degrading treatment Freedom of movement 		<ul style="list-style-type: none"> Commercial sex work above the age of 18 is not strictly prohibited
<ul style="list-style-type: none"> Penal Code of 1860 	<ul style="list-style-type: none"> Criminal penalties for kidnapping, abduction, slavery, forced labor, rape, wrongful confinement, selling or buying of minors for prostitution 		<ul style="list-style-type: none"> Lengthy court procedures Hostile or unsympathetic attitude of court officials Eye witness required to testify the rape
<ul style="list-style-type: none"> The Suppression of Immoral Traffic Act of 1933 	<ul style="list-style-type: none"> Imposes penalties for detaining a girl under 18 years against her will in a place of prostitution or for encouraging or abetting the prostitution of a girl under 18 years 	<ul style="list-style-type: none"> Police can remove the girl from brothels If the girl is less than 16 police can turn her over to a juvenile court Juvenile court can put her in “suitable custody” 	<ul style="list-style-type: none"> No formal agreements with the destination countries Tendency to charge women with immoral behavior Complicated repatriation procedure Victims reluctant to reveal their true identity in foreign country
<ul style="list-style-type: none"> The Child Marriage Restraint Act of 1929 	<ul style="list-style-type: none"> Penalizes male adult who marries a girl under 16 years Penalizes any parents/guardians who facilitate this crime 		<ul style="list-style-type: none"> Births are not registered and therefore difficult to establish the age
<ul style="list-style-type: none"> The Children’s Act of 1974 	<ul style="list-style-type: none"> Provides penalties for cruelty to children, use of children for begging, luring children into a 	<ul style="list-style-type: none"> Allows children to work as apprentice or attend vocational training 	<ul style="list-style-type: none"> Does not restrict child working in agriculture or

Law/Act	What it covers	Victims Support	Problems in Enforcement
	brothel and other types of exploitation	<ul style="list-style-type: none"> Establishes Juvenile Courts 	any other light work
<ul style="list-style-type: none"> Women and Children Repression Prevention Act of 2000 	<ul style="list-style-type: none"> Provides severe penalties for offences against women and children including trafficking, kidnapping, holding for ransom, rape, sexual harassment and crippling or disfiguring a child for beggary or other purposes 	<ul style="list-style-type: none"> Offences to be tried in special Tribunals Time limits to expedite investigations and prosecution Permits a case to proceed without a police report Prohibits the disclosure of the identities of women and child victims by the media Fines collected given to victims as compensations Placement of women or children in safe custodial arrangements during the trial of an offense Provision of upbringing of the child born after rape by the person committing rape 	<ul style="list-style-type: none"> Tendency to charge under Passport Act which has mild penalties Reluctance of judges to convict death penalty or life imprisonment Women may not want safe custody Insufficient witness or documentary evidences for severe penalties Victims' reluctance to participate as witness No provision for punishment for sexual harassment or mental torture of those held in custody
<ul style="list-style-type: none"> The Cruelty to Women Ordinance, 1983 	<ul style="list-style-type: none"> Lays heavy penalty for kidnapping or abduction of women 		<ul style="list-style-type: none"> It has several loopholes and therefore is rarely carried out⁹
Related Laws and Acts			
<ul style="list-style-type: none"> The Vagrancy Act of 1943 	<ul style="list-style-type: none"> Promotes social rehabilitation of vagrant beggars and handicapped persons 	<ul style="list-style-type: none"> Facilitates opening and running of vagrant homes 	
<ul style="list-style-type: none"> The Children (Pledging of Labor) Act of 1933 	<ul style="list-style-type: none"> Prohibits any parent or guardian from pledging the labor of a child less than 15 years. 		
INDIA			
<ul style="list-style-type: none"> Constitution of India 	<ul style="list-style-type: none"> Prohibits trafficking in persons and forced labor Right to equality and equal protection Protection from arrest and detention except under certain conditions 		

⁹ Trafficking of women and children: The Cases of Bangladesh, p. 21, UBINIG, 1995

Law/Act	What it covers	Victims Support	Problems in Enforcement
	<ul style="list-style-type: none"> Men, women and children should not be forced by economic necessity to enter unsuitable avocations Children and youth should be protected against exploitation 		
<ul style="list-style-type: none"> Indian Penal Code of 1860 	<ul style="list-style-type: none"> Criminal penalties for: <ul style="list-style-type: none"> Kidnapping or abduction for various purposes Buying and selling a person for slavery Buying and selling a minor for prostitution Procuring a minor girl Rape and other offences 		
<ul style="list-style-type: none"> Immoral Traffic (Prevention) Act 1956 	<ul style="list-style-type: none"> Criminalizes the following acts: <ul style="list-style-type: none"> Keeping a brothel or allowing premises to be used as a brothel Living on the earnings of prostitution Procuring a person for prostitution, with or without consent Detaining a person in a brothel or other premises for prostitution, with or without consent Prostitution in or near a public place Soliciting for prostitution Seducing a person for prostitution while in custody 	<ul style="list-style-type: none"> Authorizes warrant less searches Permits police to rescue any person from a place where prostitution is believed to be taking place Magistrates have a discretion to send rescued child or a minor in an authorized custodial institution Authorizes state governments to establish protective homes, corrective institutions and special courts Women offenders can be kept in corrective homes in lieu of the prison 	<ul style="list-style-type: none"> Does not define trafficking Less severe penalties for women offenders
<ul style="list-style-type: none"> The Child Marriage Restraint Act of 1929 	<ul style="list-style-type: none"> Penalizes male adult who marries a girl under 16 years Penalizes any parents/guardians who facilitate this crime 		<ul style="list-style-type: none"> Births are not registered and therefore difficult to establish the age
<ul style="list-style-type: none"> The Children (Pledging of Labor) Act of 1933 	<ul style="list-style-type: none"> Prohibits any parent or guardian from pledging the labor of a child less than 15 years. 		
<ul style="list-style-type: none"> Child Labor (Prohibition and Regulation) Act of 1986 	<ul style="list-style-type: none"> prohibits the employment of children who have not completed their fourteenth year in specified hazardous occupations and processes 		<ul style="list-style-type: none"> No mention about other forms of child labor like household chores More of regulation than

Law/Act	What it covers	Victims Support	Problems in Enforcement
			prohibition of labor
<ul style="list-style-type: none"> Juvenile Justice (Care and Protection of Children) Act of 2000 	<ul style="list-style-type: none"> Mandates to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles 	<ul style="list-style-type: none"> Mandates states to ensure that all the basic needs of the child are met and their rights are protected 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Treaty of Peace and Friendship (with Nepal) 	<ul style="list-style-type: none"> Creates open borders between India and Nepal 	<ul style="list-style-type: none"> Citizens of Nepal have right to move in and settle in India 	<ul style="list-style-type: none"> No one is aware of the treaty and hence those rescued are considered for repatriation as for any other country
<ul style="list-style-type: none"> Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children (adopted in 1998) 	<ul style="list-style-type: none"> Review and modification of existing laws Better enforcement of existing laws Continuation of police raids on brothels as per ITPA Confiscation of assets and income of exploiters 	<ul style="list-style-type: none"> Counseling and free legal advise to women in custody 	<ul style="list-style-type: none"> Long procedures for modifications of laws Brothel raids are less coordinated and often miss the objective Rescue not supported by livelihood support program
Related Laws and Acts			
<ul style="list-style-type: none"> The Bonded Labor System (Abolition) Act of 1976 	<ul style="list-style-type: none"> Frees all bonded labors Cancels any outstanding debt Prohibits the creation of new bondage agreements 	<ul style="list-style-type: none"> Economic rehabilitation of freed bonded laborers 	
Laws and Acts of State Governments			
<ul style="list-style-type: none"> Organized Crime Act (State of Maharashtra) 			
<ul style="list-style-type: none"> The Bombay Police Act (State of Maharashtra) 			
<ul style="list-style-type: none"> Illegal Trafficking (Abolition) Act 1956 (State of MP) 			
<ul style="list-style-type: none"> Goa Child Act 	<ul style="list-style-type: none"> Protects, promotes and preserves the best interest of children of Goa 	<ul style="list-style-type: none"> Manages registered or state run homes to place the rescued children 	

Law/Act	What it covers	Victims Support	Problems in Enforcement
	<ul style="list-style-type: none"> Prohibits all forms of sexual abuse and involvement of child in sex tourism Bans child prostitution and child trafficking 	<ul style="list-style-type: none"> Establishes victim assistance cells 	
NEPAL			
<ul style="list-style-type: none"> The Constitution 	<ul style="list-style-type: none"> Right to be free from exploitation, including traffic in human beings, slavery, serfdom and forced labor Right to equality before law and equal protection Right within the criminal justice system such as freedom from torture and cruel or degrading treatment 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> The Muluki Ain (Code of Law) of 1964 	<ul style="list-style-type: none"> Prohibits the taking of persons out of the country by fraud or incitement, for the purpose of selling them Prohibits slavery and bonded labor Imposes criminal penalties for enticing minors away from their legal guardians, rape, assault and other forms of abuse 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Does not adequately cover trafficking
<ul style="list-style-type: none"> Human Trafficking (Control) Act (The 1986 Act) 	<ul style="list-style-type: none"> Defines what is included in Trafficking Imposes different penalties for different types of crimes Establishes extraterritorial jurisdiction 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Burden of proof lies on the accused Trafficking is not included in the extradition treaty Prior approval of the court before initiating investigation No provision for in camera hearing Procedural requirements are extensive and burdensome for victims Court proceedings can be unpleasant to victims
<ul style="list-style-type: none"> Traffic in Human Beings (Offences) 	<ul style="list-style-type: none"> Criminalizes prostitution In addition to those in Human Trafficking 	<ul style="list-style-type: none"> Free legal aid to victims In camera legal proceedings to protect 	<ul style="list-style-type: none"> Could be used to harass sex workers including

Law/Act	What it covers	Victims Support	Problems in Enforcement
and Penalties) Act (Draft) ¹⁰	(Control) Act of 1996, includes the following offences: <ul style="list-style-type: none"> Sexually abusing a minor Having sexual intercourse with a prostitute Forced pregnancy Running of brothels Use of any premises or vehicle in connection with the traffic in human beings Production, sale and supply of vulgar pictures, publications or other materials 	victims <ul style="list-style-type: none"> 50% of the collected fine to be granted to victims Shifts the burden of defendant for some offenses 	women and children who have been trafficked
<ul style="list-style-type: none"> The Labor Act of 1992 	<ul style="list-style-type: none"> Establishes general conditions to work Prohibits bonded labor 	<ul style="list-style-type: none"> Raised minimum wages 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> The Children's Act of 1992 	<ul style="list-style-type: none"> Prohibits the employment of children below 14 years in manufacturing industries Prohibits parents from selling their children Prohibits the use of children in pornography and other immoral acts 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Child Labor (Prohibition and Regularization) Act 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Foreign Employment Act of 1985 	<ul style="list-style-type: none"> Prohibits the foreign employment of both minors and women without the permission of both the government and the minor's or woman's guardian. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Limits legal migration of women and thus promotes illegal migration
<ul style="list-style-type: none"> National Action Plan to combat trafficking and commercial sexual exploitation 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Treaty of Peace and Friendship (with India) 	<ul style="list-style-type: none"> Creates open borders between India and Nepal Women and minors if not accompanied by their respective guardians are required to get an acceptance from their guardians 	<ul style="list-style-type: none"> Citizens of Nepal have right to move in and settle in India 	<ul style="list-style-type: none"> No one is aware of the treaty and hence those rescued are considered for repatriation as for any

¹⁰ Passed by the lower house of the parliament in 2002 and awaiting clearance from the upper house

Law/Act	What it covers	Victims Support	Problems in Enforcement
			other country
SRI LANKA			
<ul style="list-style-type: none"> The Constitution 	<ul style="list-style-type: none"> Freedom from torture Right to equality Freedom from arbitrary arrest, detention and punishment, and prohibition of retro active penal legislation 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> The Penal Code 	<ul style="list-style-type: none"> Bans obscene publications, exhibitions, indecent photography or filming/video taping Prohibits sex between men Prohibits illegal foreign adoption Procurement of children for sexual exploitation is punishable Procurement or attempt to procure any person of whatever age to become, within or outside Sri Lanka, a prostitute is an offence 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> No mention for organizing sex tours

Programs and Efforts to Support Implementation of Law

(This is not yet a comprehensive list, additions are welcome)

Program/Effort/Initiative	Organization (Govt/NGO)	Highlights	Donor
Police			
Gender Sensitization [Bangladesh]	Centre for Women and Children's Studies	<ul style="list-style-type: none"> Specific issues related to trafficking, sexual harassment, violence and rape under: Role of police officers in recording FIRs Process of interrogation and investigation Submission of charges 	UNIFEM
Training of Police officials [Bangladesh]	Police Training Centres	<ul style="list-style-type: none"> Human rights training including the issue of trafficking in persons for all police officials, particularly chiefs 	GOB
Training and sensitization [India]	Lawyer's Collective (NGO)	<ul style="list-style-type: none"> Legal literacy 	Not known
Study on training and non training organizational interventions for inculcating Human Rights observance by police in India [India]	Sardar Vallabhbhai Patel National Police Academy (Govt. Institute)	<ul style="list-style-type: none"> Evolve training strategies for various identified knowledge, skill and attitudinal domains To recommend non-training interventions 	NHRC
Sensitization programs for police, NGOs, officials [India]	National Commission for Women	<ul style="list-style-type: none"> Better implementation of safeguards and laws for the benefit of women 	GOI
Complaint Cell/Counseling Cell [India]	National Commission for Women	<ul style="list-style-type: none"> Deal with cases of non implementation of laws enacted to provide protection to women Deal with non compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to women 	GOI
Short Term Course [India]	Tamil Nadu Police Academy	<ul style="list-style-type: none"> Three days course on each of the following topics: Trafficking in girls and women Immigration control, procedure and enforcement Juvenile justice Human Rights 	Government of Tamil Nadu
Regular Courses [India]	UP Police Academy	<ul style="list-style-type: none"> Human Rights Violence Against Women Juvenile Delinquency Harassment of women 	Government of Uttar Pradesh
Train the Trainers [India]	Gender Training	<ul style="list-style-type: none"> Training of police academy instructors about trafficking and 	USAID

Program/Effort/Initiative	Organization (Govt/NGO)	Highlights	Donor
	Institute	violence against women, relevant laws, working with NGOs and building successful cases	
The Danish Supported Human Rights and Good Governance Program in Nepal [Nepal]	Royal Danish Embassy	<ul style="list-style-type: none"> Providing technical equipments and training to improve the collection and analysis of physical evidence Training on better criminal investigation 	Danish Government
Human Rights Training Program [Nepal]	Amnesty International (INGO)	<ul style="list-style-type: none"> To familiarize the police with human rights issues To educate and inform the police about the illegality of torture and change attitudes and practices 	
Workshop on Minimum Standard for the treatment of trafficked persons [Nepal]	JIT (NGO)	<ul style="list-style-type: none"> Familiarize the stake holders about the minimum standards of treatment Identify gaps between India and Nepal on enforcement of minimum standards Strengthen linkages between concerned agencies Build common strategy with an action plan to protect the rights of trafficked women 	Not known
Female Police Cells [Nepal]	INL funding	<ul style="list-style-type: none"> Training seminars for new recruits on trafficking and rape cases Provision of rape kits, fingerprinting kits and photographic equipments 	USAID
Strengthening the Administration of Justice and Building National Human Rights Capacity [Nepal]	Office of the High Commissioner for Human Rights	<ul style="list-style-type: none"> Promoting a better understanding of the human rights dimension vis -à-vis trafficking of women and development policies Strengthening the administration of justice 	Not known
Workshops for government officials including police [Sri Lanka]	Women in Need (NGO)	<ul style="list-style-type: none"> Discussion on general law, Muslim law and Kandyan law and answering queries of participants 	USAID
Prosecution			
Anti Trafficking Program [India]	Prerana	<ul style="list-style-type: none"> Sensitivity training of law enforcement employees Regular meetings between NGOs and law enforcement 	UNIFEM
Anti-trafficking public awareness including law enforcement officials [India]	Save our Sisters	<ul style="list-style-type: none"> Confronting myths about trafficking Raise awareness on human rights abuse 	USAID
Courts and Judges			
Gender and Judges [South Asia]	UNIFEM	<ul style="list-style-type: none"> Making justice delivery systems more gender sensitive in South Asia region Developing country specific modules for training 	USAID

Program/Effort/Initiative	Organization (Govt/NGO)	Highlights	Donor
		<ul style="list-style-type: none"> ▪ Creating core group of resource persons 	
The Danish Supported Human Rights and Good Governance Program in Nepal	Royal Danish Embassy	<ul style="list-style-type: none"> ▪ Preparation of comprehensive criminal procedure guidelines ▪ Training of all stakeholders within the criminal justice system 	Danish Government
Research on laws [Sri Lanka]	Women in Need (NGO)	<ul style="list-style-type: none"> ▪ Highlighting discriminatory practices, especially under the Kandyan and Muslim Law 	USAID
Sensitization of Judges (West Bengal)	SLARTC (NGO)	<ul style="list-style-type: none"> ▪ The Court in West Bengal has empowered this organization to provide sensitization training programs for its judges. 	

Care of Victims Annex

Victim Witness Protection

Shelter Homes, Standards and Implementation

Counseling Services

National Laws on Shelter Homes

(This is not yet a comprehensive list, additions are welcome)

Laws/Guidelines	Coverage	Limitations/ Implementation	Future/Proposed actions
BANGLADESH			
Nari O Shishu Nirjaton Domon Act, 2000	<ul style="list-style-type: none"> In case of need woman/child can be kept in a safe custody under the care of the govt in a govt approved place. 	No clear guidelines regarding the “government-approved place” for safe custody have been put in place. The accreditation process the “government-approved place” has not yet been determined.	<p>Presently the National Plan of Action & the Recovery & Reintegration group of the Govt. Protection Cell has started setting up minimum standards for care givers.</p> <p>Also, a coordination body made of govt. officials, NGOs, INGOs are developing a min. std. care guideline for shelter homes run by all 3 type of organisations</p>
Children’s Act, 1974	<ul style="list-style-type: none"> Children requiring special protection (either for fear that an offence will be/or has been committed against that child) are to be taken “to a place of safety.” 	In the new Act, the place where the victim or possible victim will stay is not adequately made clear, which raises concerns that the previous practice of placing those in “safe custody” behind bars, will continue as will the abuse.	
INDIA			
The Juvenile Justice Act 2000 (previous act 1986)	<ul style="list-style-type: none"> State government can set-up children’s Homes, Shelter Homes, After-care organization. State govt. has to provide for the management of these homes. That rehabilitation & social integration of the child shall begin during the stay in the special home 	<p>Observations Homes for temporary shelter of juveniles which are required in each district but actually exist only in big cities.</p> <p>Under these laws the state govt. is expected to frame rules and regulations which should cover these aspects of standards and quality. Often these rules & regulations are neither drafted nor brought into effect.</p>	
Immoral Traffic (Prevention) Act, 1956 (As amended by Act 44 of 1986, wef 26.1.1987)	<ul style="list-style-type: none"> Setting-up of shelter homes for women and children Lays down minimum guidelines but primary towards infrastructure, cleanliness, etc. Dept. of Women and Child Development to set-up guidelines Provides for the transfer of the 	No holistic guidelines on the functioning	

	victim to protective home or corrective home, pending investigation or for the purpose of safe custody.		
Model Rules for All States and UTs – the (name of state/UT) Juvenile Justice (Care & Protection of Children) Rules, 2001	<ul style="list-style-type: none"> Lays down the rules for homes within that state, is guided by the JJ Act. The guidelines specify homes and services therein: shelter, protection, counseling; services, inspection; rehabilitation and social Integration; Guidelines for setting-up of after-care organisations 	Under these laws the state govt. is expected to frame rules and regulations which should cover these aspects of standards and quality. Often these rules and regulations are neither drafted nor brought into effect.	
NEPAL			
Human Trafficking Control Act (1986)	<ul style="list-style-type: none"> Provisions such as child welfare home, child reformation centre, free legal aid etc. are stated in the law. 	No such facilities available in practice.	
SRI LANKA			

NGO/Donor Shelter Initiatives

(This is not yet a comprehensive list, additions are welcome)

	Bangladesh	India	Nepal	Sri Lanka
<i>International Labour Organisation – International Program for the Elimination of Child Labour (ILO-IPEC)</i>	-South Asian Sub-Regional Program to Combat Trafficking in Children for Exploitative Employment - National-level initiatives on protection & rehabilitation of child victims of trafficking (Partners: National Ministries of Women, Children & Social Welfare Departments, key national NGOs, UN agencies, bilateral agencies like USAID, NORAD)			
<i>International Organisation for Migration (IOM)</i>	-Programs which provide shelter and assistance to combat trafficking and for safe-migration			
<i>Asian Development Bank (ADB)</i>	- Undertook research on the legal dimensions associated with trafficking in South Asia			
<i>UNIFEM</i>	- Major focus on anti-trafficking programs in South Asia and works in all the four countries. -South Asia Regional Anti-trafficking Resource Center to identify, collect and disseminate related information -National resource centres in Sri Lanka and Nepal			
<i>South Asia Partnership (SAP)</i>	- runs programs in these countries which include extensive research on the trafficking dimensions in India, Nepal and Bangladesh			
<i>End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) - International</i>	- Follows what governments are doing to combat sexual exploitation of children, documents good practices - Programs on training of caregivers. Provides information on psychosocial rehabilitation of victims			
<i>Action against Trafficking and Sexual Exploitation of Children (ATSEC)</i>	- network of NGOs in the region, working on preventing trafficking - ATSEC members run shelter homes -Provide various services including counseling			
<i>BNWLA and Save the Children, Denmark</i>	- Guideline for shelter home management. -shelters open to many other partner organizations			

	Bangladesh	India	Nepal	Sri Lanka
<i>Bangladesh National Women Lawyers Association (BNWLA)</i>	<ul style="list-style-type: none"> -Guideline for running a child-friendly shelter. -Homes provide health care- short as well as long term, psychosocial counseling, NFE, vocational training, skill development training, legal aid, job placements. 			
<i>One Stop Crisis Centre (Government project) –</i>	<ul style="list-style-type: none"> Runs under the supervision of Doctors -Counseling to victims of rapes, torture, physical assault and family violence -Services include psychological counseling. 			
<i>Association for community development (ACD)</i>	<ul style="list-style-type: none"> -Shelter home for children, rescued trafficking/ sexually exploited boys and girls. -Provides Food, clothes, health care, education facilities. 			
<i>Stree Adhar Kendra</i>		<ul style="list-style-type: none"> -Trauma counseling center for women and children 		
<i>Joint Women's Program (JWP)</i>		<ul style="list-style-type: none"> -Set up an anti-trafficking network -Facilitates rehabilitation & reintegration of women and children who are exploited for commercial sex. 		
<i>Action for Agricultural Renewal in Maharashtra (AFARM)</i>		<ul style="list-style-type: none"> -Includes provision of services for community development -Programs on trauma counseling, family counseling -Conducts monitoring & evaluation of initiatives 		
<i>St. Catherine's Home</i>		<ul style="list-style-type: none"> -Shelter cum rehabilitation home for rescued girls -vocational training with help of hotels, vocational counseling -education - rehabilitation counseling -psychological counseling. 		

	Bangladesh	India	Nepal	Sri Lanka
<i>Prayas</i>		-shelter home for victims of trafficking & abuse - non-formal education -vocational training -library and education facilities		
<i>Praajak</i>		-Night shelter - Reading, writing, vocational training		
<i>Women's Interlink Foundation (WIF)</i>		-Shelter homes for rescued women/girls - Counseling, vocational training, education, rehabilitation and reintegration skills		
<i>Prerana</i>		– filed PIL due to which the Mumbai High Court appointed a Guidance & Monitoring committee to supervise the Special Home. The GMC reports to the Court -Runs shelter home providing		
<i>Saarthak</i>		Provides counseling training to various organizations and NGOs		
<i>Maiti</i>			-Shelter homes -Comprehensive program of services include counseling & provision of other services - focus on rehabilitation & reintegration -trains the women in skills and livelihood vocations. -Provision of small loans to the women for small business start-ups.	
<i>Centre for Victims of Torture – works with help from EU, USAID, DFID, DANIDA, UN agencies</i>			-psychosocial counseling of victims of torture -rehabilitation of the victims	
<i>ABC-Nepal</i>			- training, counseling & rehabilitation Center	

	Bangladesh	India	Nepal	Sri Lanka
			-continuous follow-up program. -various types of counseling including Nondirective, Individual, Group, Cognitive, therapeutic & Occupational	
<i>Navjyoti</i>			-home for children rescued from sexual exploitation -Counseling, NFE, vocational training, legal advice	
<i>Stri Shakti</i>			-Rehabilitation care – counseling, medical care, vocational training, income generating activities -seed money to child victims and/or their families to raise their incomes	
<i>WOREC</i>			-Rehabilitation Centres for Child Victims -Counseling of victims and their families, NFE, vocational training	
<i>Shakti Samuha</i>			-Counseling and psychological support to girls/women survivors of sexual exploitation	
<i>The Rural Women's Development and Unity Center (RUWDUC)</i>			-Provides services and manages two shelters for abused women	
<i>The Women's Foundation</i>			– runs a shelter & provides medical & legal assistance to women and children, -education and counseling services -enhances access to credit and service agencies, to promote local savings and credit programs.	
<i>Child Workers in Nepal (CWIN)</i>			- runs a shelter -works for the protection, socialisation and rehabilitation of children - runs a helpline service for children in trouble	
<i>The Asia Foundation</i>			With USAID support launched program to combat trafficking of	

	Bangladesh	India	Nepal	Sri Lanka
			women & girls. -rehabilitation & reintegration services -Partner NGOs -Maiti Nepal, Center for Legal Research & Resource Development, NGO Federation of Nepal, Women's Rehabilitation Center & ABC.	

National Laws on Counseling Services

(This is not yet a comprehensive list, additions are welcome)

Laws/Guidelines	Implementation	Limitation/implementation	Comments
BANGLADESH			
		The National Plan of Action & the Recovery & Reintegration group of the Govt. Protection Cell has started setting up minimum standards for care givers. Interventions in development of psycho-social care and services, including counseling especially for children who have been sexually assaulted/exploited is relatively new in Bangladesh. ¹¹	
The Juvenile Justice Act 2000 (previous act 1986)	<ul style="list-style-type: none"> That rehabilitation & social integration of the child shall begin during the stay in the special home Requirement in the Act to provide for appropriate services including counseling for children. Gives authorization to Dept. of Woman and Child Development and states that this should also provide family counseling 	<p>No minimum standards or good practice guidelines are laid down for the process of counseling.</p> <p>No information on the implementation or evaluation of these guidelines.</p>	
INDIA			
Model Rules for All States and UTs – the (name of state/UT) Juvenile Justice (Care and Protection of Children) Rules, 2001	<ul style="list-style-type: none"> Counseling is mentioned as one of the services to be provided to the occupant of the home; Mention of the need to have the mode of dealing with Juvenile or Child suffering from dangerous diseases or mental complaint. 	In fact, appropriate counseling in shelter homes is conspicuous by its absence in most shelter homes	
Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children (adopted in 1998)	<ul style="list-style-type: none"> Provision for counseling to women in custody 		
NEPAL			
SRI LANKA			

National Laws on Witness Protection

(This is not yet a comprehensive list, additions are welcome)

Laws/Guidelines	Coverage	Limitations/ Implementation	Future/Proposed actions
BANGLADESH			
Women and Children Repression Prevention Act (2000)	<ul style="list-style-type: none"> Prohibits the disclosure of the identities of women and child victims by the media. Provision for the placement of women/children in safe custodial arrangements during the trial 	Inadequate implementation	
INDIA			
Immoral Traffic Prevention Act (1956) As amended by Act 44 of 1986 (wef 26.1.1987)	<ul style="list-style-type: none"> Authorises state govt.s to establish protective homes. Provides for the transfer of the victim to protective home or corrective home, pending investigation or for the purpose of safe custody. 		
Karnataka State Govt.		Still under consideration	Still under consideration. General – does not deal specifically with trafficking cases.
NEPAL			
SRI LANKA			

Types and Numbers of Shelters

- Very little statistical information is available about shelters in any of the countries on which SARI/Q focuses.
- Overall numbers of shelters were found for Government run shelters in India and Bangladesh, 273 and 70, respectively, but numbers of Government run shelters in Nepal and Sri Lanka have not yet been located.
- For none of these countries has SARI/Q yet been able to find information on the number of NGO run shelters.
- Program data for a number of NGOs was however available and has been examined on a comparative basis in term of the types of services they provide. Even though the sample size is small and non-scientific, information the analysis SARI/Q carried out is consistent with narrative descriptions of shelters and counseling services that do not attempt to provide a quantitative picture of their scope.

Data on Services Provided in Shelters from a Small Set of Cases

(This is not based on a comprehensive list, additions are welcome)

	Bangladesh	India	Nepal	Sri Lanka
Number of Shelters Examined	5 ¹²	7 ¹³	9 ¹⁴	1 ¹⁵
Types of Services Provided				
Shelter/safe haven (+ b, l, c)	5	7	7	
Educational facilities +NFE	5	6	5	
Vocational training	2	4	4	
Medical facilities	3	5	4	
Long-term medical care	1			
Counseling	5	7	8	2
Recreation facilities	1	1		
Rehabilitation help e.g. financial, jobs	1	2	3	
Follow-up after they leave		1		
Comments	The numbers have been calculated by focusing on a few organizations/ NGOs whose work/details have repeatedly come up during our research. (See foot notes for the names). A number of times the types of services provided have not been clearly mentioned, but we have tried to incorporate all mentioned services. One unclear repetition has been that of provision of 'counseling'. Though the NGOs mention that counseling is provided, not many explain as to the types of counseling. In those cases we have taken counseling to mean 'psychological counseling'. For further breakup of the types of counseling please see section C.			

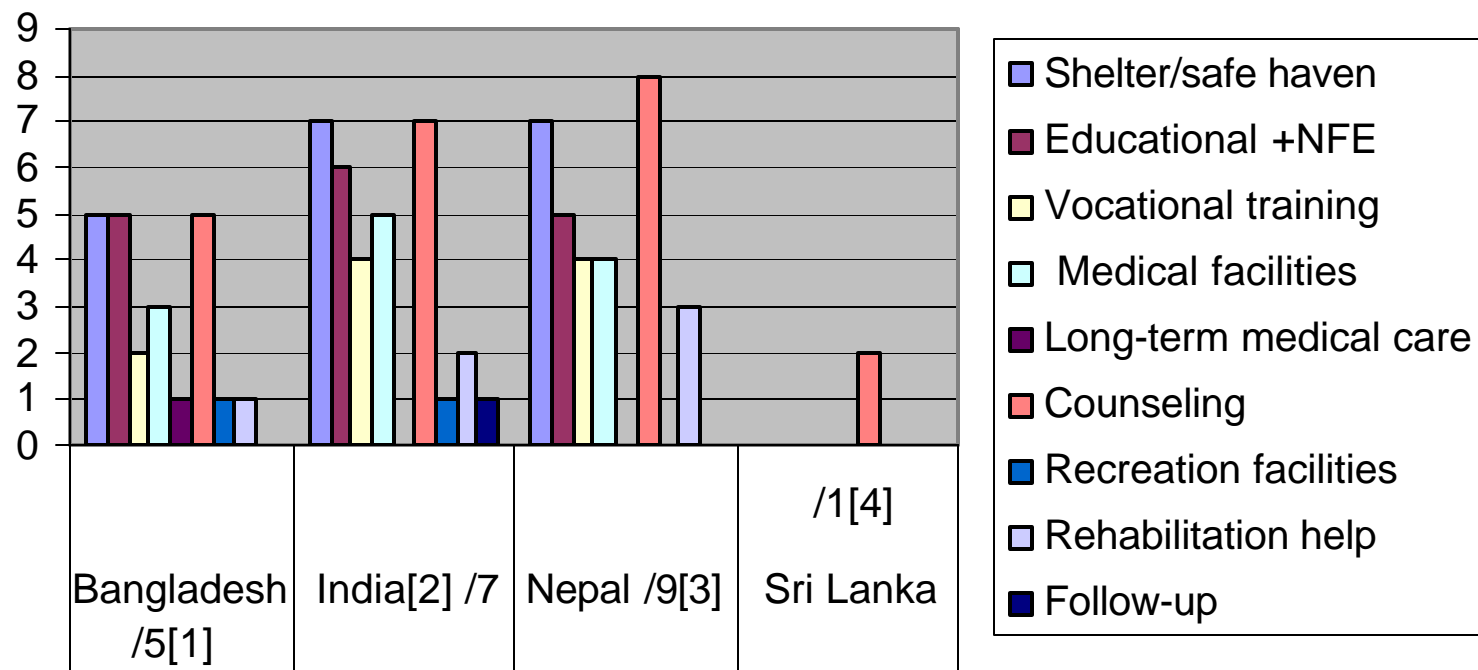
¹² NGOs used for data - BNWLA (2 types of homes), ACD, Nirmal Ashroy, Aparajeyo, KKS

¹³ NGOs used for data - Prerana, Karunakar, Praajak, Prayas, WIF, JWP, PASS, SBT(Delhi)

¹⁴ NGOs used for data - Women's Foundation, RUWUC, Shakti Samuha, WOREC, Stri Shakti, CWIN, Navjoti, ABC, Maiti (Transit , Rehab)

¹⁵ NGO used for data - PEACE

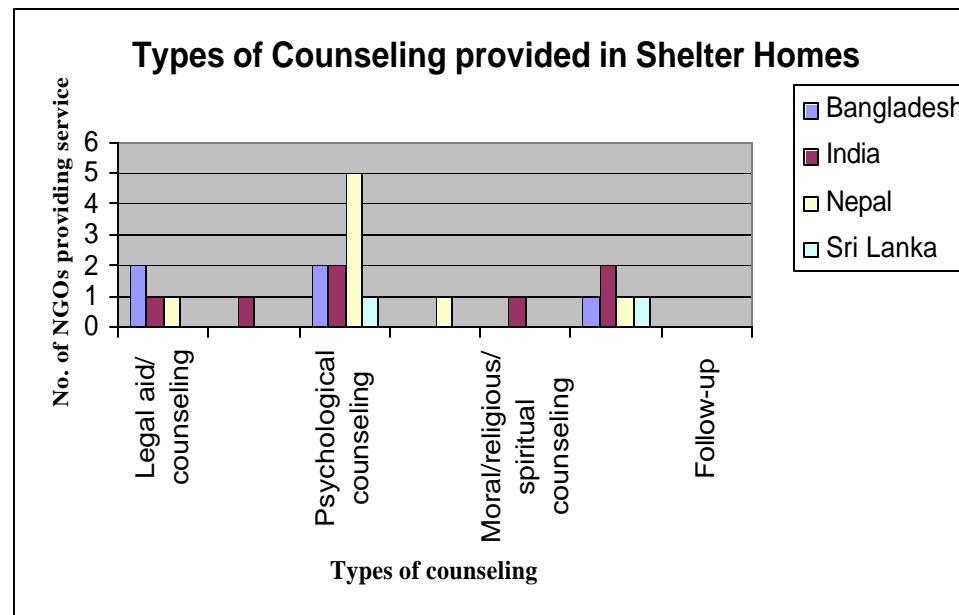
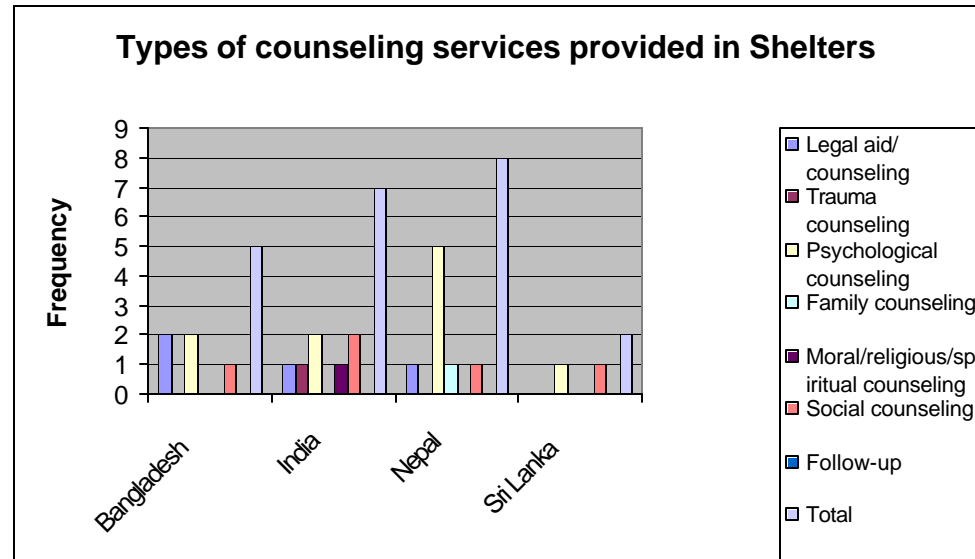
Services provided in shelters



Types of Counseling Offered in Shelters Based on a Small Set of Cases

(This is not based on a comprehensive list, additions are welcome)

	Bangladesh	India	Nepal	Sri Lanka
Number of Shelters Examined	5	7	9	1
Types of Counseling Offered				
Legal aid/ counseling	2	1	1	
Trauma counseling		1		
Psychological counseling	2	2	5	1
Family counseling			1	
Moral/religious/spiritual counseling		1		
Social counseling	1	2	1	1
Follow-up				
Total	5	7	8	2



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This list is still being prepared and will be available in the bound version at the workshop.

1 While complex migration pattern existed for generations in some parts of South Asia, such as
 2 Bengal (McDowell and de Haan) and internal migration within India rose during the British
 3 period, pulled by labor demands on tea and rubber plantations (Srivastava and Sasikumar),
 4 migrants represented a fraction of the urban population such as Dhaka prior to the 1980s
 5 (Feldman), and even where migrants were common before that, such as in Mumbai, the vast
 6 majority came from the adjacent areas such as Bihar and Andhra Pradesh (Srivastava).
 7 Srivastava, op cit.
 8 Economic and Social Commission for Asia and the Pacific, Migration, Poverty and Development
 9 in Nepal, 2003.
 10 Destinations for higher skilled laborers differ from those of low skilled laborers, for both women
 11 and men, with higher numbers in these skill categories migrating to Europe and the United States
 12 for work, which is not to say that lower skilled laborers do not also choose these destinations, they
 13 simply do so at a much lower frequency than their counterparts going to the Gulf.
 14 Each economic theory is associated with the name of the individual who first described it, thus it
 15 is Lee's Push-Pull Theory, Mitchell's Economic Model (of regional disparity) and so forth. A
 simple summary of each of these models is included in J.B. Rajan's Labor Mobility in the Small
 Scale Fisheries Sector of Kerala, Kerala Research Programme on Local Level Development ,
 Discussion Paper 44, 2002 available at: <http://krpcds.org/publica.htm>. This base was taken
 forward significantly for trafficking by the work in Bangladesh through which the NGO
 community, the International Organization for Migration (IOM) and USAID developed a new
 model or paradigm for the way in which trafficking works in both supply and demand terms.
 INSTRAW, Temporary Labor Migration of Women, 2000.
 The degree of poverty associated with internal migration and emigration to another country differ.
 As several economic analyses point out, it is not the "poorest of the poor" who migrate for jobs in
 the Gulf. The cost of migration is beyond their means. Those who migrate, while poor, are
 nonetheless from family circumstances that make the price of a plane ticket affordable, either from
 family, or extended family savings, or a loan of a magnitude that itself precludes the very poorest.
 (Feldman, op cit.)
 Virani, Pinki, *Bitter Chocolate*, Penguin Books, 2000.
Getting at the Roots: Stopping Exploitation of Migrant Workers by Organized Crime, ILO, 2002.
 One of the few survey's of trafficking victims in the region is Bal Kumar's *Trafficking in Girls
 with Special Reference to Prostitution: A Rapid Assessment*, ILO, 2001
 The number of women and children who are kidnapped is not insignificant. For example,
 in 2002 the state of Uttar Pradesh reported 1,365 such cases and Rajasthan, which claims to be
 experiencing a decline in the kidnapping of women, reported 2,002 cases. Kidnapping is also
 believed to be a key to trafficking in Bangladesh. Many of these girls and women end up in the
 sex trade. A large percentage come to India, and some are trafficked to more distant destinations,
 including the Gulf. The sale of children by their parents for which there is less "hard" data, is
 nonetheless clearly present in trafficking patterns in the region. Other examples of trafficking
 include young boys trafficked to the Gulf as camel jockeys and children drawn into Sri Lanka's
 thriving sex tourism and pornography industries.
 Sameena Azhar, Sex Trafficking in South and Southeast Asia on the Rise at
<http://www.hardboiled.org/5.1/51-01-sextrafficking.html>.
 Global March, lists all reported data. Figures above for cross-border trafficking are rough
 averages of these educated guesses.
 U.S. Department of State Trafficking Report, 2003: Delhi 48; Mumbai 1; Andhra Pradesh 56;
 Karnataka 20; Bangalore 6; and Chennai 5.
 Ibid: Delhi 14; Mumbai 1.